



# Massachusetts Law Quarterly

NOVEMBER, 1934

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OF THE

### JUDICIAL COUNCIL OF MASSACHUSETTS

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Issued Quarterly by the MASSACHUSETTS BAR ASSOCIATION, 60 State St., Boston, Mass.

### INTRODUCTORY STATEMENT.

Previous reports of the Judicial Council were reprinted in the "Quarterly" for November, 1925, December, 1926, November, 1927, December, 1928, December, 1929, November, 1930, November, 1931, November, 1932, and November, 1933. The Tenth Report reprinted herein has been filed with the Governor. Copies of all the reports of the Council (which are numbered Public Document 144) are obtainable at the Public Document Room in the State House, Boston.

### A CORRECTION.

My attention has been called to an error on page 64 of the Report of the Judicial Council in this Number. The population of the Judicial District of the West Roxbury Court is incorrectly stated. The correct figure is 113,992 as appears in Table III of Appendix B. page 94.

F. W. G.

STATEMENT OF THE OWNERSHIP, MANAGEMENT, CIRCULA-TION, ETC., REQUIRED BY THE ACT OF CONGRESS OF AUGUST 24, 1912,

Of Massachusetts Law Quarterly, published quarterly at Boston, Mass., for October 1, 1934.

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Owners, Massachusetts Bar Association.

President, Nathan P. Avery. Treasurer, Horace E. Allen. Secretary, Frank W. Grinnell.

Known bondholders and other security holders, none.

FRANK W. GRINNELL.

Sworn to and subscribed before me this 19th day of September, 1934.

JOSEPHINE A. KRAFT, Notary Public. (My commission expires March 18, 1938.)

[SEAL]

Entered as Second-Class Matter at the Post Office at Boston.



## TENTH REPORT

OF THE

# Judicial Council of Massachusetts

CREATED BY CHAPTER 244, Acts of 1924

(Now General Laws, Ter. Ed. Chapter 221, Sections 34A-34C)

NOVEMBER, 1934

(For Index see pages 4-5)



Publication of this Document approved by the Commission on Administration and Finance 2400. 12-'34. Order 3211.

To

of ter

### The Commonwealth of Massachusetts

NOVEMBER 30, 1934.

To His Excellency, JOSEPH B. ELY,

Governor of Massachusetts.

In accordance with the provisions of section 34B of chapter 221 of the General Laws (Ter. Ed.) we have the honor to transmit the tenth annual report of the Judicial Council.

T. HOVEY GAGE, Chairman.
FREDERICK LAWTON.
CHARLES THORNTON DAVIS.
WILFRED BOLSTER.
ARTHUR W. DOLAN,
CHARLES L. HIBBARD.
WILLIAM G. THOMPSON.
HERBERT B. EHRMANN.
FRANK W. GRINNELL.

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### ACTS OF 1924, CHAPTER 244

As amended by St. 1927, c. 293, and St. 1930, c. 142 Now appearing as G. L. (Ter. Ed.) Ch. 221, §§ 34A-34C

An Act providing for the Establishment of a Judicial Council to make a Continuous Study of the Organization, Procedure and Practice of the Courts.

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Be it enacted, etc., as follows:

Chapter two hundred and twenty-one of the General Laws is hereby amended by inserting after section thirty-four, under the heading "Judicial Council," the following three new sections:-Section 34A. There shall be a judicial council for the continuous study of the organization. rules and methods of procedure and practice of the judicial system of the commonwealth, the work accomplished, and the results produced by that system and its various parts. Said council shall be composed of the chief justice of the supreme judicial court or some other justice or former justice of that court appointed from time to time by him: the chief justice of the superior court or some other justice or former justice of that court appointed from time to time by him; the judge of the land court or some other judge or former judge of that court appointed from time to time by him; the chief justice of the municipal court of the city of Boston or some other justice or former justice of that court appointed from time to time by him; one judge of a probate court in the commonwealth and one justice of a district court in the commonwealth and not more than four members of the bar all to be appointed by the governor, with the advice and consent of the executive council. The appointments by the governor shall be for such periods, not exceeding four years, as he shall determine.

Section 34B. The judicial council shall report annually on or before December first to the governor upon the work of the various branches of the judicial system. Said council may also from time to time submit for the consideration of the justices of the various courts such suggestions in regard to rules of practice and procedure as it may deem advisable.

Section 34C. No member of said council, except as hereinafter provided, shall receive any compensation for his services, but said council and the several members thereof shall be allowed from the state treasury out of any appropriation made for the purpose such expenses for clerical and other services, travel and incidentals as the governor and council shall approve. The secretary of said council, whether or not a member thereof, shall receive from the commonwealth a salary of thirty-five hundred dollars.

### MEMBERS OF THE COUNCIL

THOMAS HOVEY GAGE of Worcester, Chairman

FREDERICE LAWYON OF BOSTON
WILFRED BOLSTER OF Brookline
CHARLES L. HIBBARD OF PITTSFIELD
HERBERT B. EHRMANN OF Brookline

CHARLES THORNTON DAVIS OF MARDICHEAD ARTHUR W. DOLAN OF BOSTON WILLIAM G. THOMPSON OF Newton FRANK W. GRINNELL OF BOSTON, Secretary

### TENTH REPORT

OF THE

### Judicial Council of Massachusetts

To His Excellency

HE

JOSEPH B. ELY.

Governor of Massachusetts

The Judicial Council was created by St. 1924, chapter 244 (See copy printed on opposite page), "for the continuous study of the organization, rules and methods of procedure and practice of the judicial system of the commonwealth, the work accomplished and the results produced by that system and its various parts."\*

During the past year, Hon. Frederick W. Mansfield, having been elected Mayor of Boston, resigned from the Council after nine years of service, and Herbert B. Ehrmann, Esq., of Brookline, was appointed by your Excellency to fill the vacancy.

### Introductory Remarks

In the recent case of Thayer v. Shorey (Massachusetts Advance Sheets 1934, page 1385 at 1388) Chief Justice Rugg said,—

"The courts of the Commonwealth constitute a single system for the administration of justice in conformity to law promptly and without delay."  $\,\cdot\,$ 

The second Report of the Judicature Commission in 1921, opened, by way of introduction, with the following quotation from Mr. Justice Riddell of the Supreme Court of Ontario:

"We . . . regard the courts . . . as a business institution to give the people seeking their aid the rights which facts entitle them to, and that with a minimum of time and money. We are a poor and a busy people. We cannot afford to waste either time or money."

These two quotations seem to furnish the sound standards to be kept in mind in studying our judicial system.

### 1925 Resolves, Chapter 27

"Resolved, That the judicial council is hereby requested to investigate ways and means for expediting the trial of cases and relieving congestion in the dockets of the Superior Court, and, among other things, the advisability of increasing or of wholly removing the ad damnum limits of district court jurisdiction in civil cases; measures for discouraging frivolous appeals; measures for requiring parties to frame issues in advance of trial by greater specification in the declaration of what the plaintiff in good faith claims and greater specification in the answer of what the defendant admits or in good faith denies, with suitable penalties for frivolous or unfounded allegations and denials; ways and means for encouraging, so far as consistent with constitutional rights, trials without jury, including specifically an inquiry into the operation of the laws of Connecticut and Maryland relative to the waiver of jury trials in criminal cases; and any other ways and means that may appear feasible to said council for improving and modernizing court procedure and practice so that, consistently with the ends of justice, the proverbial delays of the law and attendant expense, both to litigants and the general public, may be minimized, (Approved April 24, 1925)."

<sup>\*</sup>In 1925, the legislature also submitted the following request to the council.

In our last two reports, we discussed at some length the problems of congestion in the Superior Court and presented a picture of that congestion based upon tabulated returns of its business. At the last session of the legislature, an experiment in dealing with this problem of congestion was begun by abolishing the original jurisdiction of the Superior Court in certain actions involving the operation of motor vehicles and requiring them to be brought in the district courts, with a slight extension of the choice of district courts within a county and with the right of either party to remove the case to the Superior Court.\* This experiment was adopted by the legislature instead of the one recommended by the Judicial Council in its 8th report, pp. 18–21, and its 9th report, pp. 19–20. It went into effect on the first of October, 1934, and, while we have some returns as to the operation of the act during the first two months, it is too early to form any definite judgment in regard to it.

Our report this year will deal largely with the district courts and with certain suggestions in regard to the Supreme Judicial Court.

The increased and critical interest shown by the bar and the public in the functioning of our judicial system, and in many of the recommendations heretofore made by the Judicial Council but not vet adopted by the legislature, which has appeared in different parts of the Commonwealth, at bar meetings, in the activities of tax pavers' associations and of business men's associations, such as chambers of commerce, and which found specific expression in a resolution approved by 600 members of the Bar Association of the City of Boston in favor of a "comprehensive" study of our judicial system under the supervision of the Judicial Council, has led us to continue such a comprehensive study. In conducting this study, the Judicial Council hopes for the assistance and cooperation of members of the bar throughout the Commonwealth and of the committees of the various bar associations and laymen's associations. Suggestions are invited from any citizens of Massachusetts or body of citizens who may be interested and such suggestions should be sent to the secretary of the council, whose address is given below in a footnote\*\*.

A number of suggestions have already been received, and a special committee of the Bar Association of the City of Boston was appointed last May for the purpose of assisting, and cooperating with representatives of the bar associations from other parts of the Commonwealth, in the prosecution of this study. It naturally opens up a large field of inquiry involving a study of methods and practices of other states and countries as well as those in Massachusetts. The necessary information in regard to other jurisdictions is available here and we have already gathered much of it for comparative study. No complete report of the results of such a study can be expected at

<sup>\*</sup>St. 1934, c, 387.

<sup>\*\*</sup>F. W. Grinnell, secretary Judicial Council, 60 State St., Boston.

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# STATISTICS OF THE DISTRICT COURTS OF MASSACHUSETTS FROM OCTOBER 1, 1933 TO OCTOBER 1, 1934 AS REPORTED BY THE CLERKS OF SAID COURTS.

Commiled by the Administrative Committee of District Courts

| Juvenile Cases under 17 year                 | 583                                       | 298   | 356        | 317   | 241   | 142       | 344   | 101                 | 278                | 158   | 205   | 200             | 663         | 171   | 306    | 24                    | 10    | 105           | 84    | 54                 | 60                   | 200    |
|--|---|-------|------------|-------|-------|-----------|-------|---------------------|--------------------|-------|-------|-----------------|-------------|-------|--------|-----------------------|-------|---------------|-------|--------------------|----------------------|--------|
| Int. Liquor Cases                            | 71 27                                     | 21    | 109        | 47    | 28    | 54        | 22    | 000                 | 200                | 10    | 14    | 46              | 43          | 26    | 151    | -                     | 25    | 300           | 33    | 22                 | 01                   | 2      |
| Operating under inf. of<br>Int. Liquor—Total | 290                                       | 298   | 200        | 163   | 911   | 901       | 68    | 132                 | 306                | 102   | 208   | 168             | 96          | 73    | 83     | 43                    | 34    | 101           | 71    | 121                | 143                  | 22     |
| IntoT—sees-Total                             | 1,210                                     | 1,374 | 3,354      | 1.634 | 1,661 | 370       | 698   | 020                 | 1.045              | 273   | 694   | 1,691           | 570         | 220   | 1,335  | 200                   | 731   | 316           | 847   | 1,136              | 909                  | 513    |
| Drunkenness                                  | 4,833                                     | 3,688 | 4,967      | 3.771 | 2,659 | 1,984     | 2,169 | 1,807               | 1.865              | 1,452 | 1,355 | 1,533           | 2,543       | 1.744 | 8,055  | 657                   | 5013  | 1 035         | 908   | 477                | 1,051                | 933    |
| Criminal Appeals                             | 274                                       | 305   | 760        | 350   | 380   | 8         | 148   | 233                 | 199                | 228   | 234   | 381             | 816         | 320   | 337    | 93                    | 27.   | 200           | 31    | 73                 | 65                   | 142    |
| Criminal Cases Begun                         | 7,881                                     | 6,513 | 10,022     | 7.677 | 5,632 | 3,791     | 4,518 | 3,400               | 3.970              | 2,554 | 2,862 | 4,030           | 4 564       | 3,798 | 10,998 | 1,123                 | 1,121 | 1,710         | 2,382 | 2,000              | 2,212                | 1,802  |
| Small Claims                                 | 1,208                                     | 2,486 | 933        | 998   | 950   | 459       | 403   | 119                 | 1.558              | 430   | 588   | 201             | 981         | 386   | 115    | 215                   | 281   | 410           | 204   | 147                | 453                  | 456    |
| Supplementary Process                        | 473                                       | 775   | 583        | 641   | 362   | 228       | 16    | 7234                | 475                | 276   | 343   | 185             | 207         | 376   | 64     | 72                    | 57    | 906           | 94    | 33                 | 199                  | 417    |
| Appealed to S. J. C.                         | 200                                       | 100   | 00         | 0 -   | 0     | က         |       |                     | - 10               | 0     | 0     | 00              |             | 1     | -      | 0                     | 00    | 00            | -     | 0                  | 0                    | 2      |
| Reported to App. Div.                        | 19  | 22    | 9 0        | 40    | 1-    | 10        | 4.6   | 25                  | 12                 | 9     | 4     | 00 -            | + -         | 14    | 0      | _                     | - <   | 2             | 210   | 4                  | 12                   | 11     |
| Removals to S. C.                            | 159                                       | 194   | 51         | 164   | 09    | 26        | 33    | 507                 | 144                | 96    | 49    | 220             | 94          | 635   | 27     | 74                    | 98    | 117           | 42    | 53                 | 46                   | 000    |
| All Other Cases                              | 35  | 127   | 14         | 42    | 9     | 32        | 33    | 9,6                 | 23.4               | 24    | 9     | 651             | 16          | 24    | 00     | 25                    | 0.7   | 14            | 10    | 32                 | 1                    | 15     |
| Summary Process (Eject-                      | 1,269 634                                 | 884   | 1,372      | 926   | 965   | 270       | 354   | 017                 | 426                | 493   | 358   | 193             | 951         | 576   | 218    | 159                   | 89    | 216           | 212   | 09                 | 142                  | 166    |
| ToT  | 1,534                                     | 2,126 | 986        | 1.504 | 790   | 632       | 553   | 1,200               | 1.004              | 730   | 348   | 181             | 101         | 971   | 102    | 310                   | 200   | 692           | 156   | 116                | 413                  | 481    |
| Contract                                     | 2,589                                     | 2,780 | 133        | 2.473 | 293   | 1,150     | 842   | 1,787               | 1,135              | 1,116 | 1117  | 1,137           | 147         | 602   | 46     | 268                   | 588   | 1 002         | 480   | 411                | 167                  | 1,100  |
| Civil Write Entered—Total                    | 5,427                                     | 5,917 | 2,110      | 4,975 | 2,054 | 2,084     | 1,782 | 3,839               | 3,190              | 2,363 | 856   | 1,856           | 675,1       | 2.173 | 369    | 1,062                 | 572   | 1 056         | 858   | 619                | 1,329                | 1,762  |
| DISTRICT COURTS                              | 1. Worcester, Central.<br>2. Springfield. |       | 4. Roxbury |       |       | 8. Lowell |       | 10. Essex, Southern | 12. Norfolk, East. | 24    |       | 5. Essex, First | O. Drockton |       |        | 20. Essex, North Cent |       | 22. Hampsing. |       | 25. Bristol, First | 26. Midlsx, 4th East | Newton |

| 7,281  | ,832     | 5,446 | 44,160     | 11,849 | ,615     | 162,402          | 22,656     | 10,034 | 3 000 | 317   | 3,920 | 1,138   | 13,514 | 286  | 21,2            | 21,5                   |
|--------|----------|-------|------------|--------|----------|------------------|------------|--------|-------|-------|-------|---------|--------|------|-----------------|------------------------|
| 16     | 00 r0    | 2000  | 20 22 28   | 283    | 407-     | 179<br>105<br>84 | 2 4 5 3    | 0.02   | 000   | 000   |       | 000     | 000    | 000  | ಣ ಈ ಣ           | ಣ ಈ ಣ                  |
| 01 691 | 400      | 200   | 237        | 105    | 19       | 142              | 1333       | 13     | 000   | 000   |       | 1-010   | 200    |      |                 | 19<br>14<br>3          |
| 55.8   | 00       | 00 1- | 75         | 112    | 0101     | 264              | 38         | ೧೦ ೯೮  | 00    | -0    |       | 0 7     |        | 0-   | 10<br>0         | 11 10 0<br>1 0 1       |
| 22 8   | 2 =      | 17    | 174        | 248    | 202      | 603              | 186        | 38 61  | -0    |       |       | 3 3     |        | -0   | 16 1            | 70 16 1<br>10 1        |
| 29     | <u>-</u> | 32    | 116        | 208    | 16       | 519              | 170        | 23     | 00    | 2-    |       | 14      |        | 11.  | 1 11 6          | 36 1 11                |
| 23     | 10       | 45    | 582        | 170    | 99       | 1 002            | 97         | 12     | 00    | 0     |       | 912     |        | 0 9  | 24 0            | 45 24 0<br>47 96 6     |
| 29     | 2 4      | 84    | 1,005      | 19.3   | 25       | 1,212            | 04.55      | 17     | 00    | 21 00 |       | 40      |        | 00   | 36 0            | 22 36 0                |
| 21     | 102      | 55    | 734<br>326 | 218    | 22       | 1,140            | 54         | 17     | 00    | 00    |       | 50      |        | m m  | 9 3 3           | 38 9 3                 |
| 40     | 337      | 110   | 337        | 395    | 92       | 1,593            | 172        | 27     | 0     | -     | 0     | 12      |        | 4.0  | 15              | 35 15 4                |
| 14     | 9        | 14    | 67         | 162    | 16       | 451              | 139        | 080    | 0     |       | 00    | 200     |        | 10 C | 20 5            | 58 20 5                |
| 16     | L 4      | 121   | 193        | 283    | 9 8      | 568              | 55.        | 15     | 00    |       |       | 961     |        |      | 16              | 12 16 1                |
| 678    | 19       | 96 4  | 293<br>205 | 240    | 28       | 1,077            | 164<br>272 | 30 58  | 00    |       | 72 =  | 34 1    |        | 2 41 | 72 14           | 177 72 14              |
| 800    | 9        | 4     | 606        | 340    | 98       | 1,500            | 210        | 80     | 0     |       | -     | r- 9    |        | 0    | 0 0 0 0 0 0 0 0 | 40 40 0                |
| 50     | 40       | 68    | 108        | 256    | 12       | 268              | 175        | 19     | 00    |       |       | 27      |        | 43   | 16 43           | 125 16 43<br>49 4 1    |
| 32     | 32       | 26    | 192        | 473    | 13       | 896              | 43         | 12     | 0     |       |       | -       |        | 00 0 | 13              | 40 13 3                |
| 81     | 17       | 99    | 357        | 383    | 20       | 1,571            | 103        | 10     | 0     |       | ,0    | 11      |        | 0    | 0 9             | 28 6 0                 |
| 39     | 6-       | 126   | 300        | 161    | 103<br>× | 1,151            | 273        | 104    | 00    |       | N 0   | 19 28 0 |        | 4    | 24              | 85 24 1                |
| 48     | 20       | 66    | 759        | 337    | 55       | 1,458            | 283        | 19     | 0     |       | 40    | 30      | _      | 00 - | 27 8            | 119 27 8               |
| 65     | 2        | 17    | 123        | 678    | 94       | 1,002            | 151        | 42     | -     | - 03  | - 64  | 588     |        | 22   | 48 22           | 144 48 22              |
| 180    | ===      | 34    | 3,269      | 2,566  | 335      | 6,673            | 87         | 39     | 0-    |       | 01    | 117     |        | 67 0 | 71 2            | 995 71 2               |
| 20.00  | 13 20    | 91    | 459        | 668    | 93       | 1,511            | 116        | 93 4   | 0     | -     |       | 280     |        | 000  | 37 3            | 79 37 3                |
| 23     | 00 0     | 251   | 986        | 675    | 98       | 2,599            | 280        | 95     | 00    |       | _     | 24      |        | 44   | 53 44           | 135 53 44              |
| 500    | 20       | 32    | 406        | 189    | 29       | 1,095            | 149        | 21     | 0     |       | -     | 37 0    |        | 26   | 27 26           | 71 27 26               |
| 23     | 91       | 55    | 1,166      | 560    | 94       | 2,369            | 75         | 417    | 0-    |       | 0 4   | 088     |        | r 00 | 133             | 154 59 7               |
| 280    | _ ∞      | 200   | 452        | 212    | 24       | 2,002            | 171        | 18     | 0     | *     |       | 30      |        | 2 61 | 20 20 2         | 43 20 2                |
| 000    | 1        | 97    | 451        | 812    | 133      | 1,736            | 496        | 193    | -     | 20 -  |       | 45      | _      | G a  | 509             | 334 67 15              |
| 99     | 9        | 52    | 352        | 1,136  | 46       | 1,778            | 113        | 52     |       | -     |       | 12      |        | 4;   | 4 ;             | 95 85                  |
| 000    | 70       | 82    | 513        | 933    | 142      | 1,802            | 456        | 417    | 000   | -     | -     | 88      | _      | 15   | 166 15          | 481 166 15             |
| 40     | 22       | 121   | 1,136      | 1 051  | 733      | 2,000            | 147        | 198    | -     | 40    | _     | 62.94   |        | 32   | 142 7           | 116 60 32<br>413 142 7 |
| 28     | 33.0     | 712   | 847        | 806    | 31       | 2,382            | 204        | 97     | -     | 10    |       | 45      | _      | 10   | 212 10          | 156 212 10             |
| 105    | 00       | 101   | 316        | 1.035  | 90       | 1,811            | 419        | 296    | 0     | 10    | -     | 117     | _      | 14   | 316 14          | 623 316 14             |

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any one time. Meanwhile, certain practical conditions exist which call for treatment not inconsistent with possible later developments.

Including the Municipal Court of the City of Boston there are seventy-three district courts in Massachusetts. Because they are local courts and more persons enter them, or hear about them from those who do enter them, either as parties or witnesses than any other courts, they directly represent Massachusetts justice to a very large body of people who know little or nothing of other courts. For this and other reasons which will be stated presently, these courts form the proper starting point for a study of our system. Two special commissions, which were appointed in July, 1933, one on "public expenditures" and the other on "crime" made valuable studies of these courts incidental to the study of the broader problems with which they were concerned, and made conflicting recommendations in regard to the district courts in their reports to the last legislature in January, 1934.\*

As stated in our ninth report, pages 27 to 30, we reserved our judgment at that time in order to get the benefit of the information and suggestions contained in these reports as a basis for further study. There were certain general conclusions expressed by these special commissions in which we could not concur, as we explained in the report above referred to, but we have received assistance from their reports and the data on which they were based, which have been courteously placed at our service, and we have continued our study with the following results thus far. The tables showing the business of the Central Boston court will be found in Appendix C, pp. 103–108.

### DISTRICT COURT BUSINESS 1929-1934

(This table does not include the business of the Municipal Court of Boston)

| (2 1600 60000 6000 1100      | there are the | sained of the | 144 missic past C | Our of Dostor | 6.1       |
|------------------------------|---------------|---------------|-------------------|---------------|-----------|
|                              | 1929-1930     | 1930-1931     | 1931-1932         | 1932-1933     | 1933-1934 |
| Civil writs entered          | 65,571        | 67,846        | 76,619            | 75,329        | 70,797    |
| Removals                     | 2,376         | 3,168         | 3,567             | 3,393         | 3,626     |
| Reported to App. Div         | 224           | 214           | 284               | 330           | 317       |
| Supp. Process                | 13,536        | 14,244        | 14,202            | 10,547        | 10,034    |
| Small claims                 | 25,729        | 25,571        | 23,304            | 22,835        | 22,656    |
| Insane                       | 3,620         | 3,774         | 3,545             | - min         |           |
| Criminal cases begun         | 178,798       | 172,027       | 163,031           | 149,146       | 162,402   |
| Criminal appeals             | 8,213         | 7,736         | 7,987             | 7,355         | 7,615     |
| Drunkenness                  | 56,247        | 58,246        | 52,588            | 54,361        | 74,849    |
| Automobile cases             | 50,552        | 48,000        | 46,657            | 42,662        | 44,160    |
| Op.under inf. of int. liquor | 4,892         | 5,079         | 4,506             | 3,994         | 5,446     |
| Intoxicating liquor cases.   | 8,492         | 5,690         | 5,189             | 3,475         | 1,832     |
| Juvenile cases under 17      | 9,273         | 8,816         | 8,544             | 7,714         | 7,281     |
| Contract                     | _             | _             | -                 | 39,826        | 34,859    |
| Tort                         | -             | -             | _                 | 17,830        | 21,286    |
| Summary process              | -             | _             | -                 | 16,130        | 13,514    |
| All others                   | -             | -             |                   | 1,543         | 1,138     |
|                              |               |               |                   |               |           |

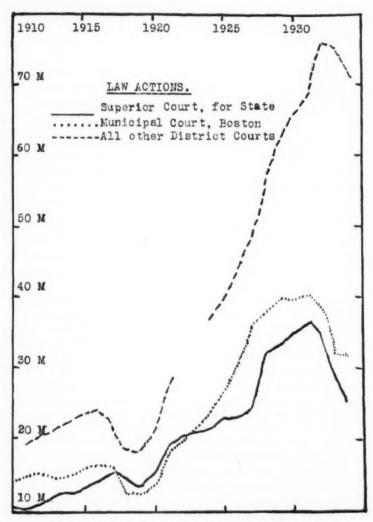
The difference between the number of 3,626 removals for 1933-34 in this table and the figure of 3,920 in the inserted table is accounted for by an error of the clerk of the Chelsea Court which was not corrected until after the inserted table was in print.

<sup>\*</sup>See report of the Wragg Commission on Public Expenditures, Senate 250 of 1934, pages 28 to 45 (reprinted in Mass. Law Quarterly for 1934) and report of the special crime commission, Senate 125 of 1934, pages 118 to 126 (reprinted in Mass. Law Quarterly for January, 1934).

### THE DISTRICT COURTS

We said in our eighth report,—"All our judicial history is a picture of the growth of business crowding work downward toward the base of the judicial pyramid . . . And this means that the base line must be prepared to receive the load and handle it satisfactorily." That persistent tendency has increasingly directed attention to the district courts, the part which they play in our judicial system, and their potential capacity for larger service. A correct answer to the last question demands the fullest possible information about these courts, lest a partial and distorted view, based on mere impression rather than knowledge, lead to unwise measures. We believe also that the first step in critical analysis should be quantitative rather than qualitative. And there comes an initial difficulty. We know that these courts are the lineal descendants of the old justice of the peace and trial justice systems, and that successive enlargements of their jurisdiction, particularly on the civil side, have been such that a profound change in the character of their work has resulted. But if we seek to know how they have reacted to these increases in responsibility, information is still somewhat inadequate. On the criminal side the reports of the correction and probation departments give a rather detailed picture of the functioning of these courts, but an important test of public opinion appears on the civil side, where we have for quite a space of time given a rather open choice to litigants to use or avoid the district courts. A chart on the opposite page of civil law entries will give a picture of the trend away from the jury trial by the use of the district courts.

It is not enough, however, to know that the growth in civil entries is greatest in the district courts, taken as a group. The several courts vary greatly in their relative amounts of civil and criminal business, in their proportions of removable and appealable cases, in their proportions of cases removed, and in their proportions of contract and tort entries. In any intelligent appraisal these variations must be appreciated, and, especially in considering any proposals for change, the causes of these variations must, if possible. be understood. And these variations are important in gauging the load which each court carries, and in deciding how much, if any, extra load can or should be put upon it. A computation based on total entries is not dependable if it does not allow for the fact that different types of cases which come to the district court make very different drafts upon judicial time. The only analysis which allows for that is, so far as we know, that made in 1918 by Hon. Henry T. Lummus, in connection with the report of a special committee of the executive council on the standardization of salaries. (House Document 1175 of 1918.) He adopted a method of computing the "average annual business in units" which gave a value of five to



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Chart showing the relative increase in the use of different courts from 1910-1934.

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civil writs entered, of two to poor debtor cases, criminal cases, other than drunkenness, begun, and juvenile cases, and of one to drunkenness cases. The committee accepted those comparative values. which were stated to meet the approval of justices and clerks consulted as a fair index of labor involved. The average was for the years 1911 to 1915, inclusive. We insert for contrast a table\* which shows conditions averaged for the five years 1929-1933, inclusive, treating supplementary process cases as equivalent to the former poor debtor cases, and giving a value of two to small claims cases. a new type. We still lack information, outside of the Boston Municipal Court, as to the proportions of undefended cases, and the character of cases as an indication of the willingness of the local bar to entrust cases to the district court. The table shows that population gain is no reliable measure of gain in business. population of many judicial districts has remained nearly stable, while business has doubled, sometimes trebled. The annual number of civil writs entered in all the district courts other than the municipal court of the city of Boston, on the average for the years 1911-1915, inclusive, was 21,401; for the years 1929-1933, inclusive, it was 69,313, ignoring over 20,000 small claims cases yearly. This is a gain quite out of line with population increase. But the correctness of population gain as an index of business gain is not as presently important as to appraise correctly the actual court load.

It must be remembered that those district courts were originally created for part time service. The desire, in times when transportation and communication were much more difficult than now, to have a local magistrate near at hand, led to the setting up of courts far more numerous than the business required, if the officials were to work anywhere near full time. A judge was expected to add to his salary by his law practice. There has been much public demand of late for full-time judges, " a judge and nothing but a judge." A law practice competing for a judge's attention, one which leaves him open to a suspicion, even if unwarranted, that his judicial action has been influenced by his interests and contacts as an attorney, is not calculated to raise him in public esteem. Let it be understood at the outset, however, that the change would not be all clear gain, but only a balance of inconvenience. Unless the judge can arrange his docket, there will be times of waiting on the part of counsel, parties and witnesses; but we think a competent judge on full-time service should be able to arrange the business of his court to suit the public, the local bar and public officers.

Whether, as in many district courts today, the public convenience seems best served by reserving certain days for civil business, and whether criminal business should be disposed of in morning sessions, are matters to be determined by the judge, who knows the require-

<sup>\*</sup> Appendix B, Table 3, pp. 94-95.

ments and wishes of the public in his district. In providing for fulltime judicial service, there is removed the temptation to make the administration of his court secondary to his other business and we assume that judges who accept full-time service will henceforward be single-minded to have their courts meet every requirement of their localities.

There is, of course, no insuperable objection to another plan which has been suggested of dividing civil and criminal work in the district courts and having the criminal work performed by the standing justice and the civil work done by traveling circuit district justices who could be full-time judges devoting their entire time to civil business which could be heard in different local courts at periods assigned in advance on certain days of the week.

We have tabulated the load of each court so as to show a division of the civil and criminal business,\* and, as to the former, the division between cases which by statute must be brought in a particular district court, and those which may at the election of parties be brought either in the superior or a district court, and, as to the latter, the division into contract and tort entries, and the number of entries removed.

We make this division because it discloses the reaction of lawyers and parties to a situation in which there is an option between use of the district courts or of the superior court. The sustained rise in district court entries over a period of years, exceeding the corresponding rise in the superior court, shown on the chart (page 11) means that litigants as a group have been increasingly content to have their disputes settled in the district courts. Enlargements of jurisdiction account for that rise in but small part. Neither will it do to say that the rise is due to delay in the superior court, for that is chronic\*\* and there is no immediate prospect of removal of that motive for choice.

There have been factors working to retard that rise. Salaries based on population gain, the guage of business increase accepted by the legislature of 1918, following its earlier acceptance by the legislature of 1904 (House 175, 1904) have fallen far behind the gain in business load. The passage of courts into a higher salary scale through population increase has added but little in fifteen years. Relatively small increases in the salary scale have not met the increase in living cost. Judges who accepted part-time service—meeting an increased judicial load, with no corresponding recompense, can be excused if they pay more proportionate attention to their competing law practice. That they have done so seems reasonably sure from the use of special justices (Table 1, columns 5 and 9)\*\*\* in

\*\*\* Appendix B, p. 88-90.

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<sup>\*</sup> Appendix B, Tables 2 and 4, pp. 91 and 96.

<sup>\*\*</sup> cf. Report of Commission on Delay of 1909, House 1050 of 1910.

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such varying volume as to indicate that some judges have made sacrifice to their judicial work, while others have given precedence to their law practice. And from this use of special justices comes much of today's complaint. Yet the rise in the district court civil entries goes on, and the fact of that rise should answer those who call for destructive measures on the ground that "the district courts have lost the confidence of the public."

Another thing which has made the spread between load and pay the greater is the change by Stat. 1922, Ch. 532, which gave these courts final jurisdiction of fact, abolishing the retrial *de novo*, on appeal. This increased responsibility has added greatly to judicial work, for coupled with it is the requirement that the judge shall declare the law which guides him.

Taking the situation as we have described it, we suggest that the public criticism of these courts be suspended long enough to permit reflection upon the question how far, human nature being what it is, the public can continue to pile on the load without corresponding recompense and yet expect satisfactory results. We are inclined to think the public has received more than it has given. Anything we may have to say on the subject is not said in the interest of the judges, but of service to the public. A judge underpaid for the work he does is likely to be a poor public investment. The public cannot afford to create or maintain any such obstacle to securing the right type of men for these courts.

### The Objective of Full-Time Judges.

While immediate realization at all points may not be possible, it is not too early to set up objectives. Our objectives are full-time judges, adequately paid; judges without competing demands on their time, paid enough to secure the desired type of service, lacking both the time and incentive for non-judicial activities. To the extent that these objectives can be realized, we are confident that current criticism will be removed. But we doubt that any approach can or should be made in any state-wide way, at one time. Just as the displacement of the trial justice by the district courts was a gradual process, extending over decades, so we think it wise to begin the new transition from the part-time to the full-time judge at points which are most obviously ready for it.

It is necessary at the outset to know what constitutes a normal load of district court work for a full-time judge, so as to see how many courts already measure up to the standard. On the best 1

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testing basis available\* there is enough civil business to occupy a full-time judge in the courts at Worcester, Springfield, Malden, Cambridge and Quincy. It may be that on further study, it will be necessary to recommend two full-time justices in certain courts. There is nearly enough civil business, and in view of probable increase there will soon be fully enough, to consume the full-time service of a judge at Lynn. On the criminal side, the Roxbury court is the only one outside of the Boston court with enough business for a full-time iudge.

### Suffolk County Courts

As to Suffolk County, we think the increase of business has brought about a condition in which the existing courts can be merged to advantage, and at no great increase in expense, if any. The central court now keeps abreast of its work only by the use of its special justices in busy times. If, as seems probable, its tort entries continue to increase, housing limitations may cause it to fall behind in its civil trial work. At the same time, if the present system continues, commodious and expensive court houses in various parts of the county will remain unused a good part of the time. It is unnecessary to repeat the reasons which led the Suffolk Courts Commission in 1912 to advise the merger of these courts (House 1638 of 1912). Those reasons have been reinforced by time. What with trial and appellate work, there is enough district court work now in Suffolk County to keep 17 full-time judges reasonably occupied, and practically to remove from the picture the special justice. A few should, however, be available for times of stress.

As to cost, it will mean \$34,200 yearly to raise the salaries of the eight standing justices in the outlying courts to the rating of an associate justice in the central court. But the 9 courts expended

<sup>\*</sup>The only available testing ground is the Boston municipal court, which is a full-time court. There six judges dispose of the civil business. Each judge, on the average, attends to the judicial work, trial and appellate, caused by the entry of about 6,900 civil cases, including therein supplementary process and small claims. This means that the 108,711 civil entries in the 72 remaining district courts could be handled by 15 or 16 full-time judges, unless the character of the work changes. We are of the opinion that it will change as a result of the law requiring original entry of motor tort cases in the district courts. If the purpose of that law is realized, 6,000 civil entries will be more nearly a full-time load, for tort cases lead to a larger number of trials than the contract entries, which hitherto have constituted the larger bulk of district court entries. On this basis, there is civil work in the other district courts for 18 full-time judges.

On the criminal side of the Boston court, the annual list of about 43,000 cases consumes a little less than the time of three judges. The fact that drunkenness cases are in larger than normal proportion there, and that the probation force makes large use of the "release" law, requires a larger allowance for the other courts. We think twelve to fifteen thousand criminal entries per full-time judge about right.

In using these figures, we are well aware that our test is only a rough one and that allowances may well be needed in places where the work varies in kind and proportion.

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in 1932 (9th Judicial Council Report, page 26) over \$37,000 for special justice sittings.

As to the exact form which any merger should take, much would depend on what answer would be made to the constitutional question raised in our 9th report (pages 32, 33). The desirable course would be a legislative merger of all these courts, retaining all their officials until experience showed whether the court was overmanned.

The Council think it probable and some members are strongly of the opinion that an act can be drawn to accomplish that object, which will meet all constitutional requirements but as stated in our ninth report (p. 33) we think no such plan should be adopted without first requesting an advisory opinion from the justices of the Supreme Judicial court as to its validity. We have not thought it profitable to draft an act until we get some indication that the legislature wishes an act drawn for consolidating these courts so that such an advisory opinion may be obtained. If a draft act is requested by the legislature for this purpose we will prepare and submit such an act in a special report.

We have not alluded hitherto to the Boston Juvenile Court. We believe that its jurisdiction should be extended throughout Suffolk county. Consideration should also be given to a closer relationship between it and the municipal court. We think it will not hurt the justices of the latter court who may have to deal with offenders just turned 17 years of age to learn, through closer association, a little more than they now know of the methods of that court.

### Courts Outside of Suffolk

As to the rest of the state, it does not seem practicable to adopt any plan which crosses county lines, so long as the county remains the fiscal unit. With that limitation, there are obviously things which can be done, and the question is one of relative desirability. We can lessen the number of these courts by abolition of some of the least active and the annexing of their territory to some conveniently adjoining court. That plan has been advocated and rejected. We can either by fusion or the creation of a new court set up one court in each county, under control of a bench of judges who shall attend to the business at such places within the county as may be determined. Or we can retain our system of local magistrates for criminal business, and let the growing civil business be handled by full-time judges, either at the county seat or at such additional places as may seem necessary. This is said without thought of disparagement of the smaller courts as such. The obvious testing ground for any such plan is in the densely populated judicial ground of eastern Middlesex. We are not yet prepared to advise any of these plans, partly because time has not permitted as thorough 4.

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ise gh a study and analysis of the detailed workings of the district court system as should precede any radical changes, partly because the council has been urged by the bar to undertake a survey of our entire judicial system and the district court problem is a part of that larger task. We can afford to go cautiously in changing a system which has been in vogue for over half a century.

A few specific recommendations we do make. We think standing justices of the courts of Central Worcester, Springfield, Malden, Cambridge, Quincy and Lynn should be given an adequate salary, with the declared purpose that such salary shall be for full-time service, and in the expectation that enough will be saved in special justice expense to offset the salary increase.

As an additional step toward full-time judgeships we think the laws as to venue in these courts might advantageously receive further relaxations beyond those made by St. 1934, Ch. 387. The limitation to the place of abode or business of the defendant was suited to the earlier conditions of travel. It has much less force today. If the right to bring any transitory action in any district court in the county be thought too broad,\* it could, at least, cover the alternative right to bring action at the county seat. A similar alternative right has existed in Suffolk County for decades. That it meets public convenience is indicated by the fact that, by our five-year average, of the civil writs entered in the nine Suffolk district courts, the central court has 84%. We recommend the provision for such an alternative right in other counties if the broader act in the eighth report is not satisfactory.

We are of opinion that there should be an entire revision of the salary schedule. Classes based, as now, on population result in relative overpayment to some, underpayment to others. When the population test was adopted the committee expressed the fear that a schedule based on work, tested by civil and criminal entries was likely to be too fictitious and fluctuating to be of value. The fluctuations are much less than might be supposed. Each court runs in a remarkably regular groove, rising and falling with its We see no room for "fictitious" variations in the civil entries. On the criminal side, reports have been standardized for the return to the department of correction. The only chance of inflation would lie in avoiding cases against joint defendants, a limited class. And detection would be almost certain, for the clerk's books are audited. All this is of little moment as against the inequalities of the population test, and the advantages of matching pay and load. A judge who sees his pay go down with a declining list of civil cases in his court is not likely to have delusions of selfsufficiency.

<sup>\*</sup> See act suggested in our eighth report (pp. 36-38).

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We repeat that we are speaking in the public interest. Of course, we can hire cheap judges cheaply, but the public simply cannot afford to let mediocrity become the rule in the district courts, particularly since it is to them that we must look to take on the burdens of increasing litigation.

### District Court Appointments

As we stated in our ninth report (page 28), we can not concur in the sweeping criticisms which have been made of the district courts. We are aware of the imperfections of the system and "we are very much aware of the discredit brought upon the whole system by the indiscreet and unjudicial conduct of a relatively small number of its officials. . . . If real remedies are to be devised, a more accurate picture of things as they are should be painted." In justice to the district courts in general, we repeat those views. A whole bench of over two hundred judges, including many who do conscientious underpaid work as a public service, can not be indicted for the behavior of some of their number who should never have been appointed, or who have failed to meet the standards of the position.

Appointments to positions on the district courts present to the executive one of the most difficult problems in connection with the judicial system. Each district court has one presiding judge and most of them two special justices, while the Boston Municipal Court has nine regular judges and six special justices, making a total of over two hundred judicial positions in the district court system. The district courts developed gradually out of the old justice of the peace system of the nineteenth century with jurisdiction originally limited to \$300, or less, and a criminal jurisdiction over minor offences. There was then a common impression that anybody could administer justice in these courts by the exercise of a little common sense. This notion still persists, although the character of the work of the district courts, particularly in the last twenty-five years, has developed far beyond the capacity of many men, even if they are members of the bar. It has become harder and harder, and will continue to become harder in the future, to be a good judge because of the increasing variety of problems calling for trained minds, legal knowledge and skill, a capacity for sympathetic understanding of domestic and social problems, and, above all, for the standards of conduct and judgment implied in the words "judicial character." Part of the test of fitness of a judge is to be found not only in what he can and does do, but in what he does not and will not do.

The increasing pressure of the volume of business in recent years has made it necessary to throw more and more work and responsibility upon the district courts. In 1929, the legislature removed all jurisdictional limits on these courts. By the legislation of 1934, the district courts were given exclusive original jurisdiction of motor

vehicle accident cases. These courts to-day have jurisdiction over many cases which only the Supreme Judicial Court could deal with for many years and which, later, only the Superior Court could deal with. All this increased responsibility means, in our opinion, that whatever the organization plan of the district courts may be, the most essential requirement to fit them to the public needs is the recognition, by the community and by the appointing power as its representative, of the present importance of these courts and of the highest practicable standard in the selection of the justices, special justices and other officials who represent the administration of justice to a very large portion of the community. The opening sentences of the 29th article of the Massachusetts Bill of Rights apply as much to these courts as to the Supreme Judicial Court.

The twenty-ninth article provides:

"It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit. . . ."

# OTHER RECOMMENDATIONS BEARING ON DISTRICT COURT PROBLEMS

Practice by Officials of District Courts

The Wragg Commission on Public Expenditures (on page 37 of its report, Senate 250 of 1934) recommended that special justices of district courts be prohibited from practising in their own courts and "that the law be further amended to prohibit either presiding or special justices from practising in any district court in the district of their appellate division." The "Crime" Commission (on page 124 of its report, Senate 125 of 1934) expressed the opinion "that it is distinctly harmful to have special justices trying cases for those accused of crime, either in their own courts or in any of the district courts" and "that it ought to be prohibited for the sake of respect for the law and for the courts".

The effect of the activities of some special justices of the district courts in undermining public confidence in the administration of justice in the commonwealth has been commented upon repeatedly by the Judicature Commission in its second report in 1921, by the Judicial Council in various reports since that time, by the public press from time to time reflecting current comments in the community and by the two special commissions above quoted. In our ninth report, we also referred to the matter again and recommended that special justices "should be prohibited from practising on the criminal side of any court" and also "that clerks and assistant clerks of district courts should be brought within the same re-

striction".

We renew this recommendation. We submit that the discussion has gone on long enough and that it is time to check the practices of some of the special justices and other court officials who seem indifferent to the effect which their conduct produces on public confidence in Massachusetts justice.

We also called attention to the fact that G. L. Chap. 218, Sec. 17 now provides that:

"A justice, clerk or assistant clerk of a district court shall not be retained or employed as attorney in an action, complaint or proceeding pending in his court, or which has been examined or tried therein, and a special justice shall not be so retained or employed in any case in which he acts or has acted as justice."

We believe that it would be much healthier for Massachusetts if the restriction of civil practice in the first part of this provision applied also to all special justices, but, having in mind the practical difficulties which might arise from so sweeping a restriction in the smaller rural districts, we recommended in our ninth report that special justices be prohibited from practising in their own courts in any civil case in districts having a population of

according to the latest census; thus applying the restriction in the larger districts where there is no sufficient reason of any kind in our opinion to justify practice by special justices in their own courts. If they wish to continue such practice they should, in our opinion, resign for the good of the service.

We also renew this recommendation and submit the following draft act.

### An Act Relative to the Administration of Justice

Section 1. Section seventeen of chapter two hundred eighteen of the General Laws is hereby amended by striking out said section and substituting therefor the following:—

Section 17. A justice, special justice, clerk or assistant clerk of a district court shall not be retained or employed or practise as attorney on the criminal side of any court in the commonwealth. A justice, clerk or assistant clerk of a district court shall not be retained or employed or practise as attorney in any action or proceeding pending in his court, or which has been examined or tried therein, and a special justice shall not be so retained or employed or practise as an attorney in any case in which he acts or has acted as justice. In any judicial district having a population of or more according to the last preceding census, a special justice shall not be so retained or employed or practise as attorney in any action or proceeding pending in his court or which has been examined or tried therein.

Section 2. This act shall take effect upon its passage.

### Complaints and Warrants Issued by Justices of the Peace

Incidentally, the study of these courts and their operation has brought to light a situation which appears to need legislative correction.\* By Gen. Laws, Ch. 218, sec. 35, a special justice or a justice

Attention was called to the matter by the Commission on Public Expenditures in its report (Senate 250 of 1934, pp. 27-28.)

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has rectice of the peace who is also a clerk of court may receive complaints and issue warrants and summonses returnable before the court having jurisdiction. By chapter 262, section 3, he is allowed a fee of two dollars for each summons process or warrant issued by him, when not holding court. By section 36 of chapter 218 the governor may commission a justice of the peace in towns to exercise similar powers. and a like fee is chargeable under section 1 of chapter 262. Certain justices so commissioned have collected, for action within the judicial district of the first district court of Essex, amounts which, gradually rising, totalled for the year 1933 over \$2,000, and this in the face of the fact that the entire criminal list of that court is only about 3500 cases, roughly divided into 900 drunkenness cases, 1600 automobile cases and the remaining 1000 scattering. This practice has as yet found no lodgment in other counties, though it might be more easily justified in judicial districts of larger territory. It should be stopped before it spreads. It was just such evils of the fee system that in part led to the creation of the Boston Police Court in 1821, with salaried officials, and to later changes of similar character throughout the Commonwealth. The justices and clerks of the court are paid to do this work and in these days of easy travel there is no great obstacle in reaching them. The only case in which other officials should be empowered to act is an emergency such as the need of a warrant to avoid escape of an offender or something of that kind.

The history of the present law goes back to the report of the commission on the judicial system of 1876, of which Judge Soule was chairman. On pages 12–13 of that report, the commission stated that "The office of justice of the peace has ceased to be an honor to the holder," and after about a page of a more detailed explanation of this sentence the commission made various recommendations. Several statutes followed this report including St. 1879, Ch. 254, the original statute which provided that the appointment should be made on "petition of the selectmen of any town." At some time or other, this was extended to "aldermen." Considering the isolated conditions of district courts and other tribunals in 1879 as compared with the present conditions of district courts and the work of the Administrative Committee, we think that such petitions should be approved by that Committee before action by the Governor and Council.

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We recommend the following:

### Draft Act

Section 1. Section thirty-six of chapter 218 of the General Laws is hereby amended to read as follows (the new part appearing in italics):

"The governor, with the advice and consent of the council, may from time to time, upon the petition of the aldermen or the selectmen of any town within the judicial district of a district court, except a town in which the clerk of such court resides, if such petition is approved in writing by the Administrative Committee of the district courts designated under Section 43 of this chapter designate and commission a justice of the peace residing in such town to exercise in emergencies the powers given to certain justices of the peace by the preceding section in cases to be brought before said court, and to take bail in criminal cases arising within said judicial district."

Section 2. Section sixteen of chapter two hundred and eighty of the General Laws is hereby amended by inserting after the word "prosecutions" in the third line the following:

"Subject, however, in the case of fees of a justice of the peace designated and commissioned under section thirty-six of chapter two hundred and eighteen to the approval of the justice of the district court within whose judicial district such justice of the peace resides."

### Note

This change in section 16 is the one proposed by the Wragg Commission on page 93 of their report, Senate 250 of 1934.

### Activities of Clerks

We understand also that it is the practice in some district courts to have the clerk act as prosecuting officer. We suppose it came about from a desire on the part of the judge not to appear too much of an inquisitor himself. We think the loss exceeds the gain. It is bad enough to have the probation officer, in an effort to comply with duty put on him by Gen. Laws, Ch. 276, § 85, ferret out from the defendant by pre-trial questioning facts which will enable him to place a criminal record on the defendant—an inauspicious beginning for possible later probation. It is worse to have the clerk, who has probably granted the warrant or other process in the case—acting therein judicially—proceed to make that process good by acting as prosecutor. We suspect that such procedure has provoked some needless appeals. We think that clerks should attend to their clerkships and let the police attend to the prosecution.\*

<sup>\*</sup>The activities of clerks in the English local courts have called forth serious criticism in a recent illuminating book entitled "English Justice" by "A Solicitor," published by George Rutledge and Sons, Ltd.

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Avoidance of Double Trials in Misdemeanor Cases in the Boston Municipal Court and a Summary Judicial Review of Sentences

The Judicature Commission in its second report in 1921 recommended a plan to abolish double trials in misdemeanor cases by eliminating the general appeal on the whole case and requiring a defendant to elect whether he wished to be tried in the Superior Court or in the lower court. If he claimed a trial in the Superior Court the case would be immediately transferred, without trial below. If he did not claim such trial the case would be tried in the lower court and an appellate body of judges of that court would be created for the summary review of sentences.

The Judicial Council in its first, seventh, eighth and ninth reports, has also recommended this plan. In each of these reports the plan was recommended as an experiment to be tried out in the Boston Municipal Court, just as the practice of avoiding double trials in civil cases was first tried out in the Boston court by the act of 1912, ten years before it was adapted to the other district courts of the state.

In our opinion, the first trial of such a plan may be more readily made in a compact court like the central Boston court where it can be tried most simply because of the fact that this court has nine full-time justices so that the proposed reviewing board for sentences could act promptly,—perhaps on the same day on which the sentence to be reviewed was to be imposed. Experience with the plan in the Boston court would then be helpful in considering how far it was adaptable to other parts of the state.

In spite of this repeated proposal for trying the experiment within the limits of the Boston court, as other experiments have been tried, the Judiciary Committee of the legislature in 1923 reported the plan for all the district courts in the state, and it was defeated in the Senate.

The "Crime" Commission of 1933 suggested a somewhat similar plan for the whole state provided certain other changes were made in the district courts. (See report, pp. 126 and 189).

The Committee on Procedure of the Boston Chamber of Commerce supported a bill applicable to all the courts of the state at the last session. Such a bill was favorably reported to the House by a majority of the Judiciary Committee, the bill again applying to all the district courts in the state, but it was defeated in the House by a vote of 82 in favor and 130 against, showing a considerable amount of support for the idea of trying such an experiment. (See House Journal for May 24, 1934).

We understand that one of the reasons which contributed to its defeat was the belief on the part of some members of the legislature, as well as others outside the legislature, that such a bill, if enacted,

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would increase congestion in the Superior Court and that except in the case of minor misdemeanors the general practice would be to claim a jury and carry the case to the Superior Court in the first instance rather than to submit to a trial in the District Court.

It is interesting to note that exactly the same objection was made to the experiment with civil cases when it was first proposed by the commission of 1911. Predictions were made that almost all civil cases would be removed to the Superior Court and that the Boston court would have little business left. The experiment was tried, nevertheless, in spite of these predictions. Experience showed that all the predictions and apprehensions were without foundation and the business of the Boston Municipal Court has been increasing ever since.

The problems before the courts today can not be solved by a policy of inertia dictated merely by apprehensions. That sort of policy is the most expensive and unsafe experiment of all.

Under all of these circumstances, we respectfully submit that the time has arrived to try this experiment within the limitations of the Municipal Court of the City of Boston and find out how it works, instead of theorizing apprehensively about it. If it does not work well, it can be amended or repealed, but, at least, we shall learn something, although we do not believe that experience under the proposed act in the Boston Court can possibly be worse for the community than that under the present system.

In the report of the special "Crime" Commission (Senate 125 of 1934), it is pointed out on page 139 that:

"... out of 9,681 cases which were brought by appeal in the year 1932 from our District and Municipal Courts to our Superior Court, 5,245 cases (well over one-half of the entire number) were disposed of in the Superior Court upon a plea of guilty; in other words, more than one-half of our criminal defendants 'had their fingers crossed' when they said they wanted a jury trial. Further evidences of this abuse of the right to trial by jury will be found in the annexed tables taken from the report of the Department of Corrections for the year 1932, which show the number of indictments and appeals disposed of by actual trial in the Superior Court in that year as compared with those disposed of on plea of guilty."

The table referred to, which appears on page 148, shows not only the figures above stated for the whole state, but the segregated number of appeals from district courts and the numbers disposed of after appeal on plea of guilty in the Superior Court for each of the eight counties: Suffolk, Middlesex, Hampden, Worcester, Berkshire, Hampshire, Plymouth and Essex.

This table shows that in 1932 in Suffolk County alone there were 5,003 appeals and that 2,458 or 49% of these were disposed of on a plea of guilty. This means that in 49% the defendant did not dispute the correctness of the judge's finding him guilty on the facts

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and that the only reason for the appeal was to try to cut down the sentence. Of the 5,003 appealed, only 1,266 were actually tried.

We do not believe that the community will tolerate the present system of criminal appeals indefinitely and we might as well begin to try experiments for its improvement.

In considering this proposal it should not be forgotten that the sentence in the district court is not to be finally settled by one judge, but will be subject to summary review by three judges, of the Municipal Court.

Accordingly we recommend the House No. 1547 of 1934 provided the bill is revised so that it applies only to the Boston Municipal Court. An earlier draft for this purpose will be found printed in Appendix B on page 67 of the Seventh Report of the Judicial Council. These drafts should be amended to recognize the power of the court in proper cases to allow a defendant an opportunity to consult counsel before electing which court to be tried in.

### Small Claims Procedure

It has long been recognized that this procedure stops short of giving the parties an adequate remedy after judgment, and our attention has been called to the criticism that if the defendant does not pay, the plaintiff must use the regular supplementary procedure which is expensive and may require the services of an attorney.

The small claims procedure law (G. L. Chap. 219, Secs. 21–25) was originally adopted as Chapter 553 of the Acts of 1920, following the recommendation in the first Report of the Judicature Commission\* which was entirely devoted to this subject. The sections above referred to direct the justices of the district courts to provide rules of procedure for the determination of small claims and Sec. 22 outlines the procedure by certain general provisions, the details of which are left to be worked out by rule. It is expressly provided that:

"The procedure may include the modification of any or all rules of pleading and practice, anything contained in other chapters, sections or acts notwithstanding, and may include a stay of the entry of judgment or of the issue of execution. The rules for the procedure may provide for the elimination of any or all fees and costs."

In explanation of these provisions, the Judicature Commission stated on page 14 of its report:

"The provision in the proposed act for a stay of the entry of judgment or the ssue of the execution will enable the judge to decide how and when the judgment shall be paid in the simplest manner without formal proceedings. This resembles the provision of the Soldiers and Sailors' Civil Relief Act, and enables the court to adapt the order to the facts as justice may require."

This passage, in connection with the report as a whole which formed the background of this law, indicates clearly that the fundamental policy of the small claims law was to make the procedure

<sup>\*</sup>House 597 of 1920, reprinted in Mass. Law Quarterly for February 1920, p. 13.

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self-contained and in all cases where it is feasible complete in its operation, all at a nominal expense. Under the rule-making power in the statute, the District Court justices adopted Rule X of the small claims procedure, which provides:

"The court may order that the judgment shall be paid to the prevailing party, or, if it so order, into court for the use of the prevailing party, at a certain date or by specified instalments, and may stay the issue of execution and other supplementary process during compliance with such order. Such stay shall at all times be subject to being modified or vacated."

In order to enlarge this rule to meet the criticism, there must be sufficient statutory authority. It is doubtful whether the authority conferred on the court in the present Rule 10 to order payment in whole on a given date or payment by instalments has any validity except as the court may refuse stay if such order is not accepted by the losing party or may later vacate the stay if the order is not complied with; the court having no power to enforce the order by contempt proceedings because in the final analysis the order has no statutory basis.

For the purpose of carrying out the general policy of the law in regard to these small matters and avoiding unnecessary delay and expense to small claimants as well as unnecessary "red tape" we recommend the following:

### DRAFT ACT

# TO MAKE MORE EFFECTIVE THE PROCEDURE FOR THE COLLECTION OF SMALL CLAIMS

Section 1. Section twenty-two of chapter two hundred and eighteen of the General Laws is hereby amended by adding after the word "execution" in line eleven thereof the words "and authority to the Court, in its discretion, after proper inquiry, to order payment to the prevailing party of the amount found due on or before a day stated or by instalments, and to modify, extend or vacate such order and, in its discretion, to enforce such order by contempt proceedings, substantially in the manner provided in Chapter 224 to be more specifically stated in appropriate rule of the Court."

If the statute is amended in accordance with our recommendation, the Justices of the District Courts will be enabled to make an addition to their present Rule 10 which will read substantially as follows:

### TENTATIVE DRAFT RULE FOR CONSIDERATION OF THE JUSTICES

The order for payment, in the discretion of the court, may be modified or extended and shall be vacated if at any time the stay is vacated. So long as the order for payment is in force, failure to comply with its terms shall be subject to action for contempt, on written request of the party in whose favor the order is made that the party subject to the order be so cited. The citation may be made by registered mail from the clerk's office. If party so cited fails to appear in response to such

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red uch citation so served, capias may issue. If, after due hearing contempt is found and is not purged by the respondent to the satisfaction of the court, penalties may be imposed, not exceeding those provided for in supplementary proceedings in Section 18 of Chapter 224 of the General Laws (Ter. Ed.). Ordinary fees and expenses for service of papers shall be taxed as costs against the person on whom the service is made.

It shall be the duty of the court at the end of every hearing to inquire whether the prevailing party desires such order for payment and whether the circumstances of the other party are such as to warrant its being made.

### Appointment of District Court Probation Officers

In the Superior Court, probation officers are appointed by a committee of judges; in the Municipal Court of the City of Boston, appointment is by the chief justice subject to the approval of the associate justices; in all other district courts, the standing justice alone appoints. It seems wiser to have some confirmatory power in existence, covering both appointment and removal, and the only question is where that power should be lodged. By and large, we believe the district court judges endeavor to exercise this power of appointment wisely, but there have been some unfortunate choices and we feel that the needed qualifications are not always well understood or present. The growth of the importance and work of our district courts adds force to the suggestion that some added control has become necessary. While we are not insensible to the arguments submitted at the last legislature in support of a measure proposed by the Probation Commission, we think that a needed improvement, as conditions now are, lies in the placing of this confirmatory power in the Administrative Committee of the District Courts, with whom the officials of these courts have learned to work. The three judges constituting this committee are designated by the Chief Justice of the Supreme Judicial Court. They are active presiding justices of appellate divisions in different parts of the Commonwealth and by reason of their knowledge of the district court system and its important departments, of which probation is by no means the least, will bring to this duty experience and practical knowledge of the situation gained not only from service in their own courts but from regional conferences with court officials throughout the Commonwealth, which form part of the regular service of the Administrative Committee. From information which has come to us, we believe this plan will meet with the approval of most of the judges and probation officers. It has seemed to us that a probation officer who has accepted the office, and possibly given up a remunerative position should be protected against removal or discharge by requiring the approval of the Administrative Committee to such action. For these reasons, we recommend:

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### An Act Relative to Appointment of District Court Probation Officers

Chapter 276 of the General Laws is hereby amended by striking out section 88 and substituting the following:—(the new portions being printed in italics).

Section 83. The superior court, the chief justice of the municipal court of the city of Boston, subject to the approval of the associate justices thereof, and the justice of each other district court, subject to the approval of the Administrative Committee of the District Courts, and the Justice of the Boston juvenile court may appoint such male and female probation officers as they may respectively from time to time deem necessary for their respective courts and if there is more than one probation officer in one court one of such officers may be designated as chief probation officer. All officers so appointed shall hold office during the pleasure of the court making the appointment. No officer so appointed by a Justice of a District Court other than the municipal court of the city of Boston or the Justice of the Boston Juvenile Court shall be removed or discharged from office unless such removal or discharge shall be approved in writing by the Administrative Committee of the District Courts. The compensation of each probation officer appointed by the superior court shall be fixed by that court and by it apportioned from time to time among the counties wherein said officer performs his duties. In the municipal court of the city of Boston the chief justice of said court, subject to the approval of the associate justices thereof, and in other district courts and the Boston juvenile court, the justice thereof, shall fix the compensation of each probation officer appointed for such court, which compensation shall be subject to approval by the county commissioners and shall be paid by the county on vouchers approved respectively by the chief justice of the municipal court of the city of Boston or by the justice of such other district or juvenile courts."

### Suspended Sentences and Probation

### In our ninth report (on page 40) appears the following:

"It is now provided in section 1 of Chapter 279 of the General Laws that a sentence to imprisonment or to pay a fine may be suspended and the defendant placed on probation. Statistics furnished by the Board of Probation indicate that 35 per cent of the probation cases represent suspended sentences to pay fines. We recommend the repeal of the mandatory requirement that the defendant be placed upon probation whenever a sentence is suspended. Whether a case is a proper subject for both orders should in our opinion be left to the discretion of the Court. There are many cases of suspensions of sentences to pay fines which do not call for probation as they do not present any element of criminal conduct. Moreover such cases do not now receive uniform treatment. Some probation officers include such in their annual reports and others do not. The result is that the probation statistics are distorted and do not give a correct picture. The Administrative Committee of the District Courts and the Probation Commission both approve this recommendation."

We earnestly renew this recommendation to the end that the probation load may be reduced to real probation cases, that the expense incident to at least 35 per cent of the probation cases be saved, and perhaps most important of all that the time now consumed in the handling of these 35 per cent of the cases be available for the really important work of true probation. We submit a suggested draft act which in effect will abolish the mandatory requirement:

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## An Act Relative to Probation and Suspended Sentences

Chapter 279 of the General Laws as finally amended by Chap. 205 of the Acts of 1934 is hereby amended by striking out section 1 thereof and inserting in place thereof the following:

Section 1. When a person convicted before a court is sentenced to imprisonment, the court may direct that the execution of the sentence be suspended, and that he be placed on probation for such time and on such terms and conditions as it shall fix. When a person so convicted is sentenced to pay a fine, and to stand committed until it is paid, the court may direct that the execution of the sentence be suspended for such time as it shall fix, and in its discretion that he be placed on probation on condition that he pay the fine within such time. If the fine does not exceed fifteen dollars and court finds that the defendant is unable to pay it when imposed, the execution of the sentence shall be suspended and he may in its discretion be placed on probation, unless the court shall find that he will probably default, or that such suspension will be detrimental to the interests of the public. If he is committed for non-payment of a fine, the order of commitment shall contain a recital of the findings of the court on which suspension is refused. The fine shall be paid in one payment, or in part payments, to the probation officer, and when fully paid the order of commitment shall be void. The probation officer shall give a receipt for every payment so made, shall keep a record of the same, shall pay the fine, or all sums received in part payment thereof, to the clerk of the court at the end of the period of probation or any extension thereof, and shall keep on file the clerk's receipt therefor. If during or at the end of said period the probation officer shall report that the fine is in whole or in part unpaid, and in his opinion the person is unwilling or unable to pay it, the court may either extend said period, place the case on file or revoke the suspension of the execution of the sentence. When such suspension is revoked, in a case where the fine has been paid in part, the defendant may be committed for default in payment of the balance.

"The provisions of this section shall not permit the suspension of the execution of the sentence of a person convicted of a crime punishable by death or imprisonment for life or of a crime an element of which is being armed with a dangerous weapon, or of a person convicted of any other felony if it shall appear that he has been previously convicted of any felony, or of a person convicted of operating a motor vehicle while under the influence of intoxicating liquor if such offence was committed within a period of six years immediately following his final conviction of a like offence by a court or magistrate of the commonwealth."

Procedure as to the Offence of "Driving Under the Influence of Intoxicating Liquor"

The procedure required by statute with reference to the prosecution for the offence of driving a motor vehicle while under the influence of intoxicating liquor is in our judgment awkward, cumbersome and unnecessary.\* Our judgment is confirmed by the opinion of many of the judges of the district courts and other officials of these courts. One difficulty has been cleared up by the recent opinion in Commonwealth v. Gorman, 1934 Adv. Sheets 2139, decided November 2, 1934. No complaint for this offence can be secured until the registrar has been communicated with and the

<sup>\*</sup>G. L. c. 90 \$24 as finally amended by St. 1932 c. 26.

record of the defendant obtained. If it appears that the defendant has been finally convicted of a like offence within a period of six years, the complaint must charge a second offence. The penalty for a first offence is a fine of not less than twenty nor more than two hundred dollars, or a sentence of not less than two weeks nor more than two years or both . . . for a second offence not less than one month nor more than two years. Not only is this latter punishment mandatory but it cannot be suspended or the case filed no matter what the facts incident to the offence or to the defendant are shown to be. These provisions result in the following procedure: if an officer has reason to believe a person is guilty of this offence he makes an arrest charging drunkenness or the violation of some other provision either of Chapter 89 which is the "Law of the Road" or Chapter 90-the Motor Vehicle Law. Quite commonly this charge is drunkenness or driving negligently so that the lives and safety of the public might be endangered. When the defendant is arraigned in court and after plea the prosecuting officer states to the court that he intends to ask for a complaint for driving a motor vehicle while under the influence of intoxicating liquor. Thereupon the court makes inquiry of the probation officer as to the defendant's record as he has obtained it from the records of the Probation Commission,\* then fixes bail and orders the case or cases continued to a day certain. There is considerable variance as to the length of such continuances and the method used to obtain the required record from the registrar. Some courts continue for one day only and the clerk dispatches a telegram to the registrar giving the name, address and license number of the defendant. A telegraphic reply is received in due course and usually in time for the preparation of the complaint and the arraignment of the defendant on the next court day. Then if the defendant asks for a continuance or if a second offence is charged and the defendant pleads not guilty, a further continuance is granted. In other cases a much longer continuance is granted and the inquiry is made by mail. In a few courts a telephone inquiry is made and the case proceeds upon the information thus obtained. When a statute provides for mandatory sentence and especially for a jail sentence there are always a disproportionate number of appeals. This result has followed the enactment of so much of section 24 as provides for such mandatory sentence.

There was a marked difference of opinion as to the advisability of the changes from the original statute at the time those changes were

<sup>(\*</sup>G. L. Ch. 276, sec. 85 requires inter alia in the case of a criminal prosecution charging a person with an offence punishable by imprisonment for more than one year the probation officer shall in any event present to the Court such information as the Board of Probation has in its possession relative to prior criminal prosecutions if any of such persons and to the disposition of each such prosecution and all other available information relative thereto before such person is admitted to bail in Court and also before disposition of the case against him by sentence or placing on file or probation.)

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adopted, but whatever good results may have followed those changes at the time of their adoption, we think that the results of the present law are unfortunate and that the time has come to repeal the present section and to substitute provisions to meet the existing conditions in the light of the experience of the past few years. Complaints should issue when the defendant first appears in court. There should be no necessity of charging a second offence. The penalty should be a fine or imprisonment or both. We do deem it proper that there should be a provision that no complaint shall be finally disposed of until the record of the defendant has been obtained from the Registrar of Motor Vehicles. The principle of mandatory sentences is in our opinion wrong, for the courts should be at liberty to exercise sound discretion within the area of the penalty provided. as otherwise they are obliged to punish the offence and not the Moreover, a mandatory sentence, if of imprisonment, always makes for difficulty of conviction. Excluding aggravated cases, there is sympathy for a man if it is known conviction will be followed by a jail sentence. This attitude is reflected in a disinclination to arrest, to prosecute, to testify and to convict. The present statute invites failure to prosecute, appeal and acquittal.\* It does not distinguish the case of no accident from serious accident. works a hardship upon poor men who cannot furnish surety on appeal or employ lawyers and gives an advantage to the man who can command sureties and money. It must also be borne in mind that the suspension of the license to operate for one year, five or ten years is a severe penalty in and of itself.

Such a change as we recommend will in our opinion result in fewer appeals, and acquittals will be lessened when juries know that the court is not bound to sentence to a penal institution if they return a verdict of guilty. We are not unmindful of the seriousness of the offence even if intoxicating liquor is not a causative factor in accidents comparable with other elements such as speed, inattention and ignorance, nor of the necessity of insistence upon sobriety on the part of the drivers of motor vehicles, and we believe that the courts are equally appreciative of such seriousness and necessity. We are not seeking to lessen the number of convictions but to increase them in cases which deserve conviction and to make more sure that such offenders shall be removed from our highways. While the changes thus proposed are being made, it seems wise to increase the minimum and maximum fines. We called attention to the necessity for so doing in our fifth report (p. 29). Further the present section 24 is long and somewhat involved and confusing. We therefore recommend the following:

<sup>(\*</sup>In our fifth report, and on page 29, will be found a record from January 1st to November 12th inc., of the year 1929, in serious motor vehicle cases wherein appeals have been taken from jail sentences imposed in the District Courts to the Superior Court. We believe it to be at least doubtful whether an examination of the records today would disclose any better outcome of such appeals from the standpoint of prosecution.)

## DRAFT ACT

FOR THE MORE EFFECTIVE AND MORE JUST ENFORCEMENT OF THE LAW AGAINST DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR

Section 1. Chapter ninety of the General Laws is hereby amended by inserting after section twenty-three thereof the following new section 23–A:

Section-23 A. Whoever upon any way or in any place to which the public has access operates a motor vehicle while under the influence of intoxicating liquor shall be punished by a fine of not less than thirty-five nor more than one thousand dollars, or by imprisonment for not less than two weeks nor more than two years or both. Before a court or magistrate imposes sentence upon a person found guilty of this offence he shall communicate with the office of the registrar and shall inquire as to whether there is in said office any record or other information tending to show that said person has been convicted of a like offence by a court or magistrate of the commonwealth within a period of six years immediately preceding the commission of the offence with which he is charged. A conviction of a violation of this section shall be reported forthwith by the court or magistrate to the registrar who shall revoke immediately the license of the person so convicted and no appeal from the judgment shall operate to stay the revocation of the license. If it appears by the records of the registrar that the person so convicted is the owner of a motor vehicle or has exclusive jurisdiction of any motor vehicle or has exclusive control of any motor vehicle as a manufacturer or dealer, the registrar may revoke the registration of any or all motor vehicles so owned or exclusively controlled. No new license shall be issued by the registrar to any person convicted of the violation of this section except in his discretion to a person acquitted in an appellate court until one year after the date of a first conviction or five years after any subsequent conviction; and provided further that notwithstanding the foregoing no new license shall be issued by the registrar to any person convicted of a violation of this section until ten years after the date of conviction in case the registrar determines upon investigation and after hearing that the action of the person so convicted in committing such offence caused an accident resulting in the death of another, nor at any time after a subsequent conviction of a like offence in case the registrar determines in the manner aforesaid that the action of such person so subsequently convicted in committing such subsequent offence caused an accident resulting in the

The prosecution of any person hereunder, if a subsequent offence, shall not, unless the interests of justice require such disposition, be placed on file or otherwise disposed of except by trial, judgment and sentence according to the regular course of criminal proceedings; and such a prosecution shall be otherwise disposed of only by motion in writing stating specifically the reasons therefor and verified by affidavits if facts are relied upon. If the court or magistrate certifies in writing that he is satisfied that the reasons relied upon are sufficient and that the interests of justice require the allowance of the motion, the motion shall be allowed and the certificate shall be filed in the case. A copy of the motion and certificate shall be sent by the court or magistrate forthwith to the registrar.

For the purposes of this section a person shall be held to have been convicted of driving a motor vehicle while under the influence of intoxicating liquor if he shall P.D.

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have pleaded nolo contendere or shall have been found or adjudged guilty by a court of competent jurisdiction notwithstanding he shall have been placed on probation with or without sentence or the sentence shall have been suspended or the case placed on file, provided always that no appeal or bill of exceptions shall be pending.

Section 2. Said chapter ninety is hereby further amended by striking out section twenty-four thereof and substituting therefor the following:

Section 24. Whoever upon any way or in any place to which the public has a right of access operates a motor vehicle recklessly or negligently so that the lives or safety of the public might be endangered, or upon a bet or wager or in a race or whoever operates a motor vehicle for the purpose of making a record and thereby violates any provision of section 17 or any regulation under section 18, or whoever without stopping and making known his name, residence and the number of his motor vehicle goes away after knowingly colliding with or otherwise causing injury to any other vehicle or property, or whoever uses a motor vehicle without authority knowing that such use is unauthorized, or whoever loans or knowingly permits his license to operate motor vehicles to be used by any person, or whoever makes false statements in an application for such a license or falsely impersonates the person named in such an application or procures such false impersonation whether by himself or by another shall be punished by a fine of not less than twenty nor more than two hundred dollars or by imprisonment for not less than two weeks nor more than two years or both.

Any person who operates a motor vehicle upon any way or in any place to which the public has a right of access and who without stopping and making known his name, residence and the number of his motor vehicle, goes away after knowingly colliding with or otherwise causing injury to any person shall be punished by imprisonment for not less than two months nor more than two years. A conviction of a violation of this section shall be reported forthwith by the court or magistrate to the registrar who may in any event and shall unless the court or magistrate recommends otherwise revoke immediately the license of the person so convicted, and no appeal from the judgment shall operate to stay the revocation of the license. If it appears by the records of the registrar that the person so convicted is the owner of a motor vehicle or has exclusive control of any motor vehicle as a manufacturer or dealer, the registrar may revoke the certificate of registration of any or all motor vehicles so owned or exclusively controlled. The registrar in his discretion may issue a new license to any person acquitted in the appellate court or after an investigation or upon hearing may issue a new license to a person convicted in any court. Provided that no new license shall be issued by the registrar to any person convicted of going away without stopping and making known his name, residence and the number of his motor vehicle after having while operating such vehicle upon any way or any place to which the public has a right of access knowingly collided with or otherwise caused injury to any person until one year after the date of his original conviction if for a first offence or two years after any subsequent conviction, or to any person convicted of violating any other provision of this section until sixty days after the date of final conviction if for a first offence or one year after the date of any subsequent conviction. The prosecution of any person for the violation of any provision of this section, if a subsequent offence,

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shall not unless the interests of justice require such disposition be placed on file or otherwise disposed of except by trial, judgment and sentence according to the regular course of criminal proceedings; and such a prosecution shall be otherwise disposed of only on motion in writing stating specifically the reasons therefor and verified by affidavits if facts are relied upon. If the court or magistrate certifies in writing that he is satisfied that the reasons relied upon are sufficient and that the interests of justice require the allowance of the motion, the motion shall be allowed and the certificate shall be filed in the case. A copy of the motion and certificate shall be sent by the court or magistrate forthwith to the registrar.

## The Statute as to the "Right of Way at Intersecting Ways"

In connection with our study of the problems of our courts and particularly of the district courts, it has been suggested to us that the statute above referred to (G.L. Chap. 89, Sec. 8) is one of the prolific sources of prosecutions and civil litigation at least in some parts of the state. Briefly summarized, it provides that every driver of a motor or other vehicle approaching an intersection of ways, as defined, shall

- Grant the right of way to a vehicle which has already entered such intersection and
- Grant the right of way to a vehicle so entering from his right at approximately the same instant.

Then follows a provision as to traffic control intersections.

There are many cases involving collisions at intersections to which the statute may apply. Where two drivers are approaching an intersection at which two sets of right of way exist calling for quick decisions by all types of drivers, there is resulting confusion, misjudgment and insistence upon what each regards as his right. This is complicated by the fact that there is a common belief that the driver on the right has the right of way under all circumstances.

As the statute creates a rule of substantive law not primarily within the field of study of the Judicial Council, we make no specific recommendation for legislation; but, because of the fact that this rule of law contributes materially to the administrative difficulties in the courts, we call attention to it as a matter worthy of study, especially as the suggestion has often been made that the statute should be repealed in its entirety in the interest of public safety.\*

Accordingly, without presuming to pass upon this question, we recommend that provision be made for a study of it by the proper authorities.

<sup>\*</sup>According to what are apparently reliable statistics there were during this last year in this country 326,000 accidents occurring at intersections and cross roads, and resulting in 6,330 fatalities and 378,300 injuries.

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## PROBLEMS OF THE SUPREME JUDICIAL COURT

On following pages of this report we present the usual tables of the work of the Supreme Judicial Court. The number of cases entered in that court has not varied greatly for several years; but our attention has been called to the increasing length of time between argument and decision. The council ventures to make certain suggestions which it feels fully represent the mind of the bar and which will not be misunderstood by the court.

Among the methods suggested for reducing the delay in the decision of appealed cases is the shortening of opinions. It is not a new suggestion, for it has been discussed ever since the report of a joint committee of the legislature in 1859.\*

Judge Cardozo, while Chief Judge of the New York Court of Appeals, said:

"Of the cases that come before the court in which I sit, a majority, I think, could not, with semblance of reason, be decided in any way but one. The law and its application alike are plain. Such cases are predestined, so to speak, to affirmance without opinion. In another and considerable percentage, the rule of law is certain, and the application alone doubtful. A complicated record must be dissected, the narratives of witnesses must be analyzed to determine whether a given situation comes within one district or another upon the chart of rights and wrongs. The traveler who knows that a railroad crosses his path must look for approaching trains. That is at least the general rule. In numberless litigations the description of the landscape must be studied to see whether vision has been obstructed, whether something has been done or omitted to put the traveler off his guard. Often these cases and others like them provoke difference of opinion among judges. Jurisprudence remains untouched, however, regardless of the outcome. Finally, there remains a percentage, not large indeed, and yet not so small as to be negligible, where a decision one way or the other, will count for the future, will advance or retard, sometimes much, sometimes little, the development of the law. These are the cases where the creative element in the judicial process finds its opportunity and power."† (Quoted in American Mercury for November, 1934, p 350.)

Another suggestion frequently made is that the Supreme Judicial Court should, like the United States Supreme Court, be given discretion in choosing the cases which it will consider. We cannot recommend this suggestion.\*\* The litigant whose case was rejected could never be persuaded that it was not as important and as much entitled to review as the one accepted.

We renew the suggestion made by the Judicature Commission, and since then by others, that the Supreme Judicial Court in the preparation of opinions adopt the practice of the United States

<sup>\*</sup>House Doc. 120 of 1859.

<sup>†</sup>Cf. Lord Tomlin's address in American Bar Asso. Journal for October, 1934.

<sup>\*\*</sup>The practical operation of such a plan in the different jurisdictions in which it has been adopted is described in a thorough study of the appellate systems throughout the country which was made for the Judicial Council of Michigan and appears in its third report, dated "June, 1933."

<sup>§2</sup>nd Report, p. 67.

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Supreme Court and circulate their opinions in print or typewriting to all members of the court before they are handed down. Many an inadvertent phrase will escape the ear that the eye would catch and it is the inadvertent phrase that produces uncertainty and confusion. It almost always promotes future litigation.

We also commend the suggestion of the Judicature Commission\* that briefs should be filed long enough before argument to afford counsel an opportunity to discuss intelligently every issue raised and surprises be avoided and we think that the court should feel itself at entire liberty to examine before argument the records and briefs. If this was done, the value of oral argument would in our opinion be greatly increased.

Finally we call attention to the power of superintendence over our entire judicial system placed by statute in the Supreme Judicial Court as the head of the system. Traditionally this power has seldom been exercised. Until recently, perhaps, there has not been need of it, but conditions are changed. As many matters of practice, as can be, ought to be determined by a conference of judges; it ought not to be left for private individuals at their own expense to test a matter involving no principle, but merely judicial procedure.

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## THE SUPERIOR COURT

The usual statistical table of the work of this court for the year ending June 30, 1934, will be found in Appendix C. Consolidated tables covering a period of years appear on page 55.

## More Prompt and Less Expensive Administration of the Motor Vehicle Insurance Law

For the reasons stated at length in our Eighth Report (pp. 19–21) and our Ninth Report (p. 19), we still recommend as worthy of consideration the bill printed in our Ninth Report (pp. 19–20), providing that an injured person who wishes to claim the right to proceed against the insurance company issuing the policy as security for a judgment, be required to submit his claim to the courts by the procedure that is less expensive for the public. While St. 1934, Chap. 387, was adopted by the legislature as an experiment, instead of this recommendation, it is not at all inconsistent with it and it may be found advisable, in the interest of the public, to supplement the Act of 1934 by the further experiment which we have suggested.

## Jurors

We repeat the following statement from our Ninth Report (page 10):

"If respect for the administration of justice in this Commonwealth, and particularly in eastern Massachusetts, is to be preserved, something must be done to improve the quality of jurors. We suggest that the most feasible method of doing this would be by putting the selection of jurors in the hands of a jury commissioner or commissioners, selected solely with reference to qualifications for this delicate task, and having no other duty. We are aware of the objections that may be made to such a measure. The most serious would be that such a commissioner might be open to influences which would cause him to swerve from the strict path of duty. But that is a risk which the people of a democracy take with all their officials, elected or appointed, and it might be avoided to a considerable extent if the jury commissioner, however appointed were subject to removal. In our opinion congestion is caused, in part at least, by the expectation not of just verdicts, but of unjust verdicts; and if that expectation were removed by the elimination of unfit jurors many cases would not be brought. The special Commission on "Crime" in their report arrived at a similar conclusion as a result of their independent investigation, and recommended a jury commissioner for each county.

"The suggestion of a jury commissioner seems to us more adapted to densely populated districts than to rural communities where people still know each other, and it might be well to try it first in some part of the metropolitan area."

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## Interpretative Judgments as to the Meaning of Written Instruments in the Probate Courts

Although the Committee on Legal Affairs reported favorably, and the legislature adopted as an emergency law (St. 1934, Ch. 263), an act specifically providing for declaratory judgments in the Land Court as to the validity and scope of zoning ordinances, the bill, recommended in our ninth report (p. 45), to extend to the Probate Courts the declaratory procedure for interpretation of written instruments, was not adopted.

The recent fourth report of the Judicial Council of Michigan, containing Professor Sunderland's digest of all the cases in this country under declaratory procedure, illustrates and emphasizes the growing recognition of the usefulness of such procedure. As pointed out by the Council in our ninth report, there is no reason why cases involving the interpretation of wills and trusts, which normally belong in the Probate Court, should be driven into the Superior Court, already overloaded, merely because of doubt as to whether declaratory procedure like that in the Superior Court (under Rule 101) is possible in the Probate Court. The doubt should be removed.

Accordingly, we recommend the following act.

## DRAFT ACT

Section six of chapter two hundred and fifteen of the General Laws is hereby amended by adding at the end of said section the following:

A suit in equity in a probate court shall not be open to objection on the ground that a mere judgment, order or decree interpreting a written instrument or written instruments is sought thereby, and said courts may make binding determinations of right interpreting the same, whether any consequential relief is or could be claimed or not. If, in its discretion, a probate court in such case declines to make such a determination, it shall state its reasons therefor in writing.

## MINOR SETTLEMENTS

In previous reports we have discussed the matter of the settlement of claims in favor of minors who have no legal guardian and whose interests are looked after by a "next friend." These claims arise largely from accidents resulting in personal injuries; most of them from the operation of motor vehicles.

The usual practice is for a near relative to bring suit in behalf of the minor as his "next friend." The case may then be tried in the courts, or a settlement out of court may be arrived at by counsel representing the defendant and the next friend. In cases disposed of by trial, the common practice seems to be for counsel to take out execution and collect the judgment and, after deducting his fee and expenses, turn the proceeds over to the so-called next friend. Where cases are settled out of court by agreement of counsel, the practice used to be, and in some district courts now is, to go before the

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court and ask the court to enter judgment in the amount agreed. In cases of settlement by agreement, some few judges satisfy themselves by inquiry that the settlement is reasonable and in these cases and in cases actually tried some judges go further and pass upon the attorney's fee and expenses. Most judges, however, regard their approval of settlement by agreement as too perfunctory to amount to anything and do not pass upon them and defendants have become willing to pay upon a judgment entered by agreement without the approval of any court. The result is that in cases tried and in cases disposed of by agreement the award to the minor is handled by a "next friend" accountable to no court, who often uses the minor's award for family expenses or entirely misappropriates it, with the result that nothing is conserved for the minor. would not interfere with the prompt settlement of these claims; but when the injuries are serious and the amount considerable, we believe that it should be paid to some responsible person. We have pointed out a previous report\* that in these respects the practice in the Commonwealth appears to be far behind that of most jurisdictions of this country. We offer, therefore, a draft of an act applicable only to cases in which the minor's award by trial or settlement exceeds \$500.

## **Draft Act to Protect Minors**

If a minor is injured under circumstances which give rise to a claim for personal injuries, no settlement of said claim for a sum in excess of \$500, or payment of a judgment or execution therefor in excess of said sum shall release the defendant or satisfy said judgment or execution unless and until paid to a legal guardian of said minor.

## Attachment of Wages

By St. 1934, Ch. 74, the legislature made a slight change in the law in regard to attachment of wages by trustee process, but it was so slight a change that in our opinion it did not touch the serious social problem of injustice arising from abuse of the present law of attachment, by which wage earners may be forced out of their jobs and their families generally demoralized.

We discussed this matter at length in our ninth report (pages 36-37) and we again recommend the following draft act.

## An Act Relative to Attachment of Wages

Section 1. Section twenty-eight of chapter two hundred forty-six of the General Laws, as appearing in the Tercentenary Edition thereof, is hereby amended by striking out said section and substituting therefor the following:

Section 28. If wages for personal labor or personal services of a defendant are attached for a debt or claim, an amount not exceeding twenty dollars from the wages of each calendar week shall be reserved in the hands of the trustee and shall be exempt from such attachment. The amount so reserved shall be paid by the trustee to the defendant in the same manner as the said amount would be paid if no attachment thereof had been made. Every writ of attachment shall contain a statement of the amount exempted from attachment under this section and also a direction to the trustee to pay over the exempted amount as hereinbefore provided.

## REPORTS REQUESTED BY THE LEGISLATURE

REPORT ON SENATE 102 RELATIVE TO THE ATTACHMENT ON MESNE PROCESS OF MOTOR VEHICLES

(Requested by the Legislature by Resolves C20)

As pointed out elsewhere in this report in the discussion of the attachment of wages, the exceptional freedom of attachment allowed by the law of Massachusetts, while it has its advantages, is liable to serious abuse, and the opportunities for such abuse in cases in which wage earners, small storekeepers, and other persons of very limited means, are involved are so great as to constitute a social menace, particularly in these days of depression. For this reason, which is more fully developed in our ninth report (pp. 36-37) in connection with the subject of attachment of wages, we have made a recommendation for a change in the law on that subject, and for the same reason we recommend the passage of Senate 102, (if the bill is limited to attachments in civil actions of contract) which provides that motor vehicles shall not be attached unless the written consent of a judge of the court in which the action is commenced is endorsed on the writ. This will enable the courts to protect from injustice those persons who may depend on the use of an automobile for their livelihood and ability to earn money to pay their debts. It has long been the policy of the Commonwealth to exempt from attachment and even from taxes "tools and implements necessary for carrying on trade or business." (See G. L. Chap. 235, Sec. 34; Chap. 59, Sec. 5; and Chap. 60, Sec. 24.) An automobile is often within that policy in many wage-earning families today. Creditors for relatively small amounts should not be in a position to wreck poor families by the use of the attachment law.

REPORT ON SENATE 103 RELATIVE TO COSTS IN CIVIL ACTIONS (Requested by the Legislature by Resolves C20)

The law allowing attachment of the contents of a store by putting in a "keeper" is also liable to abuse in ways which have been called to the attention of the Judicial Council, and for the same reasons already stated in regard to the attachment of wages and the attachment of automobiles, we recommend the passage of Senate No. 103, which limits the amount of costs recoverable by a creditor in such a way as to discourage the abuse of the law of attachment of small stores by the use of "keepers" for the purpose of piling up the costs against the debtor for the benefit of the plaintiff's attorney.

The Judicial Council not only favors the passage of Senate 103 but would favor a bill providing that in case an attachment was made by the use of a keeper in an action at law, no costs for the use of the keeper should be allowed by the clerk without special order of the court.

The Judicial Council also would go even farther than this and favor a bill that no keeper should be used at all in any case without an order of the court in which the action is brought endorsed on the writ.

Accordingly, the council favors any one of these three alternatives which the legislature may approve of and advises the third alternative as most effective.

# Report on House 1546 Relative to Answers to Notices to Admit Facts

(Requested by the Legislature by Joint Order of June 20, 1934)

This bill proposes to amend the St. 1932, Chapter 177 by striking out the provision that the answer to a notice to admit facts may be made by a party's attorney, and substituting a provision that the notice to admit must be answered by the party under oath. The bill would restore and increase the inconveniences which resulted from the opinion (not necessary to the decision) in Butter v. Sevrensky, 257 Mass. 88, and it was to avoid the results of that opinion that the legislature adopted Chapter 177 of 1932. The original statute on this subject was adopted in 1917 (Ch. 194) and it followed to some extent the practice under the English Order 32, Rules 2 and 4, which were set out in full in the first report of the Judicial Council in the footnote to page 43. In that first report, (page 43) the council recommended, in substance, the present statute, which was adopted as St. 1926, Chapter 381, and now appears as G. L. Chap. 231, Sec. 69.

Ever since 1917, and prior to the opinion in Butter v. Severensky above mentioned, it was, we believe, the uniform practice that the answer to such a notice to admit facts could be made by the attorney in the same way and for the same reason that an answer to a bill in equity admitting or denying specifically alleged facts may be signed by the attorney under G. L. Chap. 214, Sec. 15. The old practice of having a defendant in a bill in equity swear to his answer was abandoned many years ago as an inconvenient practice which served no sufficiently useful purpose. A notice to admit facts and the answer to such a notice are similar to the allegations and the specific answers which are to be expected in a bill in equity and the answers thereto. Such a notice is not an interrogatory. It is more in the nature of a motion for specifications as to the issues and may be filed before interrogatories are filed in order to ascertain the issues to which interrogatories may relate. It is like an "of course" order for specific answers under the rule in the Municipal Court of Boston, referred to in the ninth report on page 22.

This bill, according to the report of the committee of the legislature which precedes it, appears to be based on a misunderstanding of the recommendations of the Judicial Council on page 23 of its ninth report. The Judicial Council made no recommendation in

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that report relating to notices to admit facts. They merely called attention to the fact that this method of clarifying issues was not used as much as it might be, but the recommendation which was made by the council appears at the top of page 23 of the ninth report and relates to the extension of the rule-making power to provide for oral depositions before trial. That recommendation is renewed this year.

We do not recommend the passage of House 1546. The requirement that a party should answer such a notice under oath in addition to the requirement that he should answer interrogatories under oath would be a serious mistake, in our opinion. It is the business of counsel under modern practice to prepare himself to frame an answer which will present the issues in the case properly, and this is just as true of answers to such notices as it is to an answer to a bill in equity or to a properly pleaded action at aw. Under the statute he need not answer if he does not wish to; but if he does not, the facts charged are taken as admitted because of failure to answer by force of the statute.

Serious difficulties not infrequently arise under the present law in regard to interrogatories which must be answered under oath by the party interrogated if the party is not within convenient reach after the interrogatories are filed. These difficulties would be doubled if a notice to admit facts required the parties not only to answer such a notice but to answer it under oath. There is no reason for having such a duplicated system of written interrogatories. We see no advantage whatever to be gained by House 1546. The real step in advance in clarifying the issues, in our opinion, would be the adoption of the act recommended in the ninth report to broaden the rule-making power to permit rules for taking depositions on oral interrogatories of parties and witnesses before trial. This method has proved very effective in other jurisdictions.

Accordingly, instead of House 1546, we recommend the following:

# AN ACT RELATING TO DEPOSITIONS OF PARTIES AND WITNESSES BEFORE TRIAL

Chapter two hundred and thirty-one of the General Laws is hereby amended by inserting after Section sixty-seven the following new section of 67A.

Nothing contained in this chapter, or in chapter two hundred and thirty-three shall be construed to limit the power of the courts to make rules for the taking, filing and use of depositions on oral interrogatories to parties and witnesses without regard to their place of residence.

It is to be noticed that this procedure is suited to tort as well as contract litigation. It may, therefore, turn out to be one method of lessening congestion.

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## REPORT ON HOUSE BILL No. 429 RELATIVE TO ACTIONS FOR LIBEL.

(Requested by the Legislature by Resolve Chapter 20)

This bill, on which a report was requested by the legislature, is printed in a footnote,\* together with the present section of the law which it seeks to amend.

The object of the first paragraph is to offset the decision of Ellis v. Brockton Publishing Co., 198 Mass. 538. General Laws, chapter 231, Section 93\* now provides, in substance, that a retraction, or an unaccepted offer to retract, shall confine the plaintiff to damages for "actual injury sustained." In the Brockton Publishing Co. case the court held that this clause was merely declaratory of the common law which recognized mental suffering as "actual injury." The proposed draft would confine such a plaintiff, in the absence of proof of actual malice or want of good faith, to "special damages, if any, as he has sustained, alleged and proved."

We think the present law sufficiently favorable to defendants in such cases.

House 429 proposes to amend this section by striking it out and substituting a new draft as follows:

### House 429. An act relative to actions for libel

Chapter two hundred and thirty-one of the General Laws is hereby amended by striking out section ninety-three, as appearing in the Tercentenary edition thereof, and inserting in place thereof the following:

Section 93. In any action for libel, the defendant may give in evidence in mitigation of damages the fact that after the original publication, he published a retraction of the alleged libel. If the defendant shall establish that at some time prior to the time for filing answer in the action, he gave a written notice to the plaintiff, or his attorney, of an intention to publish a retraction, or republish a prior retraction, accompanied by a copy of the proposed publication, and that he did thereafter publish the same or was requested by the plaintiff, or his attorney, not to publish the same, then the plaintiff, unless he shall prove actual malice or want of good faith on the part of the defendant, shall recover only for such special damages, if any, as he has sustained, alleged and proved. In no action of libel shall exemplary or punitive damages be allowed.

In any action for libel based upon a report of judicial proceedings any repetition of the report by the defendant or any report by the defendant of other judicial proceedings relating to the plaintiff shall not be taken as evidence of malice on the part of the defendant.

In any action for libel the court may in its discretion order the plaintiff to specify what parts of the alleged libel are untrue.

<sup>\*</sup> The present Section 93 of General Laws, Chapter 231, reads as follows:

<sup>&</sup>quot;If, in an action for libel, the defendant, before the answer is required to be filed therein, gives written notice to the plaintiff or to his attorney of his intention to publish a retraction of the libel, accompanied by a copy of the retraction which he intends to publish, he may prove such publication in mitigation of damages. If, upon such notice, the plaintiff does not accept the offer of retraction, the defendant may prove in mitigation of damages his offer to publish such retraction and that the offer was not accepted, and that the alleged libel was published in good faith and without actual malice; and unless the plaintiff proves actual malice or want of good faith, or a failure either to retract or offer to retract as aforesaid, he shall recover damages only for the actual injury sustained; but in no action of libel shall exemplary or punitive damages be allowed."

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The second paragraph of the bill endeavors to exclude the repetition of a report of judicial proceedings by the defendant as evidence of malice. The present law is that such repetition may be evidence of malice. It is said that the bare repetition of a happening in a judicial proceeding enables a plaintiff to get to the jury on a question of malice. While this is true it would seem that the court could discount the value of such meagre evidence in the absence of further indications of malice. We have heard of no case in which a final judgment was actually rendered and sustained against a defendant in a libel case by reason of such evidence alone. On the other hand cases might be put where the plaintiff would suffer by reason of a change in the present law.

The third paragraph of the bill purports to give the court discretion to order the plaintiff to specify what parts of the alleged libel are untrue. It would seem that judges already have such power, although we are informed that there are some judges who doubt it. At any rate one might well question the wisdom of having a declaratory statute as to the power of a judge to order specifications in one particular kind of action. This might be construed as indicating a limitation on that power in other types of causes. We have no doubt that the power exists whenever the interests of justice appear to the court to require such specifications. It is one of those discretionary details of administration which do not require legislation. If any judges of the Superior Court have doubts on the matter we suggest that the Committee on Rules of that Court be advised of the fact and that a rule of court be framed for the instruction of such judges.

For these reasons we do not recommend House 429 or any part of it.

We have received a communication from the Committee on the Amendment of the Law of the Bar Association of the City of Boston stating that that committee is opposed to the passage of House 429.

## REPORT ON HOUSE 791 TO PROVIDE FOR "SPECIAL JURIES"

(Requested by Resolves Chapter 20)

We do not recommend this bill for the following reasons:

The bill would amend G. L. c. 234 by providing for the selection of a certain number of "special jurors" to be used in civil or criminal cases on application "where it appears to the court that by reason of the importance or intricacy of the case a special jury is required or that the subject matter of the indictment or the issue to be tried has been so widely commented upon that the court is satisfied that an ordinary jury can not without delay and difficulty be obtained to try such issue or that for any other reason the due, efficient and impartial administration of justice in the particular case would be advanced by the trial of such an issue by a special jury."

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The special jurors are to be selected in such numbers as the Chief Justice of the Superior Court shall from time to time direct, by the present boards for the selection of jurors "in counties having a population according to the last federal census of more than 750,000." This clause as to population would limit the application of the act to the counties of Suffolk and Middlesex.

As we have previously urged (in our 9th report, pp. 9–10) the selections made, particularly in Suffolk County, have not been satisfactory. Too many of the jurors have not met the test provided by Sec. 4 of being of "good moral character" and "sound judgment." There is no reason to suppose that the boards referred to would be any more successful in the selection of special jurors than in the selection of ordinary jurors.

The proposed act leaves the method of selection and the test of fitness entirely vague. The selection is to be made "from the persons qualified to serve as trial jurors". The disqualifications are merely a somewhat elaborate negative statement of what is affirmatively required already by section 4, of chapter 234, namely, that the jurors should be of good moral character and sound judgment. Persons to be disqualified are described in the proposed act as follows:—

"No person shall be selected as such special juror who is by law disqualified or exempt from service as a trial juror, or who has been convicted of a criminal offence, or found guilty of fraud or other misconduct by the judgment of any civil court, or who possesses such conscientious opinions with regard to the death penalty as would preclude his finding a defendant guilty if the crime charged be punishable with death, or who doubts his ability to lay aside an opinion or impression formed from newspaper reading or otherwise, or to render an impartial verdict upon the evidence, uninfluenced by any such opinion or impression, or whose opinion as to circumstantial evidence is such as would prevent his finding a verdict of guilty upon such evidence, or who avows such a prejudice against any law of the state as would preclude his finding a defendant guilty of a violation of such law, or who avows such a prejudice against any particular defence to a criminal charge as would prevent his giving a fair and impartial trial upon the merits of such defence, or who avows that he cannot in all cases give to a defendant who fails to testify as a witness in his own behalf the full benefit of the statutory provision that such defendant's neglect or refusal to testify as a witness in his own behalf shall not create any presumption against him."

These disqualifications seem to be mostly directed to criminal cases, and especially to capital cases. Every one of the restrictions would be applied by the court to jurors summoned as at present. The new section would require the existing boards to apply these tests in advance. We see no reason to suppose that they either could or would do so with any effectiveness. The disqualifications mentioned are also such as would disqualify any juror from serving in a civil case.

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As the resolve requests us to consider, not only the bill, but the "subject matter," we have made inquiries of members of the judicial councils, or presidents of bar associations, in all the other states of the Union as to their practice in such matters and have received replies from many of them. In no jurisdiction have we heard of any such law as is proposed in H. 791. In some states, as in Michigan, Delaware, Virginia and West Virginia there are provisions for what are called "special" juries but which are more accurately described as "struck juries" which are chosen by the parties in a manner quite different from anything suggested in H. 791.\*

What is more generally known as a "special" jury as distinguished from a "struck" jury is the English "special" jury. In England, either party to a civil case may request a special jury, but the party so requesting has to pay all the extra costs caused thereby whatever the result of the action may be, unless the judge at the trial certifies on application made after verdict that the cause was one proper to be tried by a special jury. The qualifications of a special jury under the English practice are entirely different from the qualifications suggested in the proposed bill, House 791. The difference between a common juror and a special juror in England is briefly described in Indermaur's "Manual of Practice," 10th Ed. page 178, Notes (t) and (u) as ollows:

"The main qualifications of a common juror are that he should have £10 a year from freeholds or copyholds, or £20 a year in leaseholds, or be a householder rated or assembled to the poor-rate or to the inhabited house duty in Middlesex on a value of not less than £30, or in any other county not less than £20 (Juries Act, 1825, sec. 1).

Special jurors are persons of a higher degree than common jurors, such as bankers or merchants, or the occupier of a farm rated at £300, or of other premises rated at £100. See Juries Act. 1870, sec. 6."

The jurors thus selected by property tests are supposed to have more than common knowledge of certain types of matters, as for instance, questions involved in commercial cases. The common jurors receive a shilling and the special jurors twenty-one times as much, or a guinea. In Massachusetts, we do not have property qualifications for jurors.

We see nothing to be gained by creating any form of "special" jurors. What we need is improvement in our method of selecting jurors in general.

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## REPORT ON HOUSE 993, "RELATIVE TO PERMITTING CONTRIBU-TION BETWEEN NEGLIGENT CO-TORT FEASORS."

(Requested by the Legislature by Resolves, Chapter 20)

The provisions of this bill are stated in a footnote on page 48.\* We do not recommend this bill.

We submitted the bill to one of the most experienced justices of the Superior Court and we give his detailed analysis of it as follows:

"I have had considerable difficulty in analyzing house bill 993. It evidently is designed primarily to permit one defendant to obtain contribution rom a person who he claims was jointly responsible for the injury inflicted upon the plaintiff. I am not familiar with the law of admiralty, which I understand permits something along this line. We have few cases where two persons really commit a joint tort. We have many cases where the negligence of two persons contributes, but without joint action, to the injury of which the plaintiff complains. In such cases, as you well know, the plaintiff brings a separate suit against each defendant. The suits are tried together and if the plaintiff prevails he recovers the same verdict against each defendant, but can obtain only one satisfaction. House bill 993 would permit a defendant to summon in one or a dozen other persons as defendants. It may be that the proposed bill would authorize the jury or perhaps the court to split up a verdict and to segregate it as between the several defendants. It seems to me that this would greatly complicate the jury's deliberations. What is to happen to a plaintiff whose fair damages, as found by the jury, amount to \$1500? The defendant X is ordered by the jury to pay \$500; the defendant Y is ordered to pay \$1000. X is solvent; Y is insolvent. If there is no insurance the plaintiff will receive but \$500 although the jury had found his damages to be \$1500.

"What is meant by the 'right of separate appeal' in the 32nd line, and would the controversy between the original defendant and the defendant who has been summoned in postpone the date when the plaintiff would receive the amount of his verdict?

"The statute of limitations in motor cases is one year. Lines 17 et seq. provide that a defendant may at any time before trial on motion summon in another defendant. It may be that under some of the decisions this second defendant could be compelled to come in and defend although three years or more had expired since the date of the accident.

"Lines 27-29. Why should not the defendant who is summoned in by the original defendant have the right to cross or counterclaim against the original defendant?

"Do lines 36-40 mean that the plaintiff can recover his full verdict, but the defendant can go ahead on his appeal and perhaps later recover from the plaintiff?

"Line 42. What is this 'several judgment'? And whereindoes it differ from the 'judgment' in line 41?

"Line 55. Does the plaintiff always have his election to take either a joint or a several judgment?

"Line 60. How is the claimant's proportionate share to be determined?

"Line 65 seems to indicate that the court may award something which is called contingent judgment. If the court does this, does it deprive the plaintiff of his election as to which defendant he will proceed against?

"I am frank to say that I am unable to understand the machinery of House bill 993. It seems to me that the bill would be helpful to defendants who desire to postpone a final judgment, and that it would be a matter of aggravation to the plaintiff and incidentally to the court."

## \*HOUSE NO. 993

An Act to permit Contribution between Negligent Co-tortfeasors.

In actions arising out of negligence any defendant may file and litigate a claim for contribution against an alleged co-tortfeasor who is a party to the action.

If such alleged co-tortfeasor is a defendant in the action the claim for contribution shall be made by cross-6 complaint; if he is a plaintiff in the action the claim 7 shall be made by counterclaim. The issue of neg-8 ligence raised by such cross-complaint or countergelaim shall be tried together with, and at the same 10 time and before the same jury as, the plaintiff's action against the defendant or defendants, the claimant for 12 contribution having the rights of a plaintiff with re-13 spect to the prosecution of his cross-complaint or 14 counterclaim for contribution.

If the alleged co-tortfeasor against whom a defend16 ant in such action wishes to claim contribution is not
17 a party to the action, any defendant may add him as
8 a co-defendant at any time before the trial of the
19 action on motion to the court and may file a cross20 complaint against him claiming contribution. The
21 plaintiff may amend his complaint to include an added
22 defendant and may take judgment on such amended
23 complaint as if he had originally sued the defendants
24 as joint tortfeasors. If plaintiff so amends his com25 plaint, the added defendant may cross-claim or coun26 terclaim for contribution pursuant to paragraph one
27 of this act. If plaintiff does not so amend, the added
28 defendant may not cross-claim or counterclaim for
29 contribution.

30 A claimant for contribution under this statute who 31 suffers adverse judgment to the plaintiff shall have the 32 right of separate appeal on his cross-complaint or 33 counterclaim from a judgment in favor of the party 34 against whom he has so claimed, regardless of whether 35 or not the plaintiff appeals from such judgment. If 36 plaintiff is unwilling to appeal from such judgment, 37 he may withdraw from the action and presently exe-38 cute whatever judgment he has secured, leaving the 39 claimant to continue the action for the purpose of 40 procuring final judgment on his claim for contribution. 41 If plaintiff appeals from such judgment and on a new 42 trial obtains a several judgment differing in amount 43 from that which he already has, the claimant shall 44 have contribution for no more than one half of the 45 judgment secured against himself; and if the judg-46 ment secured against his co-defendant is less than 47 that against himself, he shall have contribution for 48 no more than half of that secured against his co-49 defendant/that secured against himself.

Nothing in this act shall prevent a separate action 51 for contribution if the claimant chooses not to raise 52 the issue in plaintiff's action; and no judgment in

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While we do not recommend House 993 for the reasons above stated, we do consider that the subject matter of the bill deserves serious consideration. The doctrine of contribution has been in force for many years in the admiralty courts and the different common law doctrine, which has been much criticized, developed apparently in the mind of Lord Kenyon in 1799. The admiralty rule and its history are explained in "Hughes on Admiralty." 2nd Ed., pp. 312-326, and 1 "Benedict's Admiralty," Sections 353 and 416. The latest discussion of the common law doctrine of no contribution appears in the third "interim" report of the "Revision of Law Commission" appointed by the Lord Chancellor about a year ago and presided over by the Master of the Rolls, Lord Hanworth. This third interim report (which appeared in July, 1934) is entirely devoted to the discussion of the common law doctrine of no contribution. As the report is not long and contains the judgment of leading members of the English bench and bar in favor of a modification of the doctrine, we reprint the report in full in appendix D to this report.

As there pointed out, the problem of contribution arises not only in connection with "joint tort feasors," but also in connection with independent tort feasors whose negligence or other legally wrongful acts contribute to the same resulting damage.

The questions of allowing contribution between tort feasors and the limitations, if any, of the common law rule of "no contribution" are questions primarily of substantive law. The purpose of a free system for joining parties who may be liable for contribution, once the doctrine of contribution is recognized, is a question of procedure to avoid multiplicity of suits with the incidental piling up of expense, multiplication of papers, etc., and to allow settlement of the whole matter in one proceeding. This has been accomplished in admiralty

<sup>53</sup> favor of any defendant in plaintiff's action shall be

<sup>54</sup> binding on the claimant in such separate action.
55 Contribution between tortfeasors shall not depend
56 on recovery of a joint judgment against them but shall
57 arise from the common liability of the tortfeasors to
58 have suffered joint judgment liability or several
59 liability for the whole damage at plaintiff's pleasure;
60 provided that no money judgment shall be entered
61 for contribution until the claimant has discharged
62 more than his proportionate share of the judgment
63 against himself, and then for only the amount paid
64 in excess of such share.

<sup>65 •</sup> But if a joint judgment has been recovered against 66 two or more joint tortfeasors, the court may award 67 contingent judgments for contribution to each de-68 fendant, whether such defendants filed claims for, or 69 otherwise asked for, contribution, or not, to be made 70 final for that defendant discharging more than his share

<sup>71</sup> of the joint judgment.

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by relatively simple rules of court, notably Admiralty Rule 56 of the Supreme Court of the United States quoted in full in a footnote.\* The leading opinion of Judge Addison Brown in the case of "The Hudson," 15 Fed. 116, discusses the matter at length. It was out of that opinion that Admiralty Rule 56 developed.

There are no juries in the admiralty courts. This simplifies the administrative problem under the rules as to joinder of parties. As far as cases tried without juries are concerned, there seems to be no reason why state court judges could not deal with the doctrine of contribution and the apportionment of damages as the federal judges do in admiralty. How much of an obstacle jury trial would prove in the administration of the doctrine of contribution is a question. It is not clear whether there is any more likelihood of confusion than exists today when half a dozen suits are brought against different persons and they are all consolidated for trial

Admiralty Rule 56.

\*In any suit, whether in rem or in personam, the claimant or respondent (as the case may be) shall be entitled to bring in any other vessel or person (individual or corporation) who may be partly or wholly liable either to the libellant or to such claimant or respondent by way of remedy over, contribution or otherwise, growing out of the same matter. This shall be done by petition, on oath, presented before or at the time of answering the libel, or at any later time during the progress of the cause that the court may allow. Such petition shall contain suitable allegations showing such liability, and the particulars thereof, and that such other vessel or person ought to be proceeded against in the same suit for such damage, and shall pray that process be issued against such vessel or person to that end. Thereupon such process shall issue, and if duly served, such suit shall proceed as if such vessel or person had been originally proceeded against; the other parties in the suit shall answer the petition; the claimant of such vessel or such new party shall answer the libel; and such further proceedings shall be had and decree rendered by the court in the suit as to law and justice shall appertain. But every such petitioner shall, upon the filing of his petition, give a stipulation, with sufficient sureties, or an approved corporate surety, to pay the libellant and to any claimant or any new party brought in by virtue of such process, all such costs, damages, and expenses as shall be awarded against the petitioner by the court on the final decree, whether rendered in the original or appellate court; and any such claimant or new party shall give the same bonds or stipulations which are required in the like cases from parties brought in under process issued on the prayer of a libellant.

FORM OF DECREE IN ADMIRALTY AGAINST TWO RESPONDENTS UNDER THIS RULE Peninsular State Steamship Co. v Gorman Leonard Coal Co. and Mystic Terminal Co.

### FINAL DECREE

### November 1, 1932

BREWSTER, J. This cause having been heard and decided by the court came on to be further heard on the entry of a final decree, and the parties agreeing that the damages for which the court held the respondents liable amount to thirty-two hundred dollars, upon consideration thereof, on motion of the libellant it is now

Ordered, adjudged and decreed that the libellant recover from the Mystic Terminal Company primarily, and from the Gorman Leonard Coal Company secondarily, the sum of thirty-two hundred dollars damages, and interest thereon in the sum of five hundred eighteen and 41/100 dollars, and costs taxed in the sum of one hundred seventy-five and 13/100 dollars, a total of thirty-eight hundred ninety-three and 54/100 dollars, with interest thereon until paid; and that the libellant have judgment therefor.

By the Court,

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together. It might be practicable for the court to obtain from the jury an answer to a special question on which the court could then apply the rule of contribution in framing the judgment.

In view of all this material, which relates primarily to a rule of substantive law beyond the field of the Judicial Council, we respectfully beg to be excused from expressing an opinion as to the advisability of a change in the doctrine of no contribution and as to the terms of a bill to bring such a change about if it is advisable. As the resolve (Chapter 20) requests the Judicial Council to investigate the "subject matter" of the bill, we submit the material resulting from such an investigation for the assistance of the legislature if the subject is to be further considered.

REPORT ON SENATE 62 AND SENATE 360 RELATIVE TO PROCEEDINGS IN EQUITY AGAINST INSURANCE COMPANIES AFTER JUDGMENTS IN MOTOR VEHICLE CASES.

(Requested by Senate Order of June 29, 1934)

We do not recommend either of these bills\* in their present form, but we submit as a substitute for both the following draft, which is a modified form of the draft which we suggested in our seventh report (pages 34–35).

## DRAFT ACT

Section 1. Clause ten of section three of chapter two hundred fourteen of the General Laws is hereby amended by adding at the end thereof the following sentence:

In proceedings hereunder against an insurance company based on a motor vehicle liability policy to reach and apply the insurance obligation in satisfaction of such judgment, evidence that at the time of the accident or collision resulting in the injury for which such judgment was recovered, the motor vehicle involved was registered in the name of the person specified in such policy as "owner" shall be evidence, subject to rebuttal, that at the time of the accident or collision it was then being operated by and under the control of a person with the express or implied consent of such registered owner.

Section 2. Section thirty-four (G) of chapter ninety of the General Laws is hereby amended by adding at the end thereof the following:

In proceedings hereunder against a surety company to reach and apply the surety obligation in satisfaction of such judgment, evidence that at the time of the accident or collision resulting in the injury for which such judgment was recovered, the motor vehicle involved was registered in the name of the principal specified in such bond as "owner" shall be evidence, subject to rebuttal, that at the time of the accident or collision it was then being operated by and under the control of a person with the express or implied consent of such registered owner.

Section 3. This act shall take effect upon its passage.

<sup>\*</sup> Senate 62 reads as follows:

Section eighty-five A of chapter two hundred and thirty-one of the General Laws, as appearing in the Tercentenary Edition thereof, is hereby amended by inserting after the word "involved," in the third line, the words:—and in suits to reach and apply the obligation of an insurance company under clause (10) of section three of chapter two hundred and fourteen,—so

# SUMMARY OF THE WORK ACCOMPLISHED BY THE VARIOUS COURTS

The act creating the Judicial Council (reprinted at the beginning of this report) provides that the Council shall study "the work accomplished and the results produced by the judicial system and its various parts" and "shall report annually upon the work of the various branches."

The annual periods reported by the different courts are not the same, some reporting for the last calendar year while others from June 30 to June 30, or from September 1 to September 1, etc. The details as to counties appear below and in Appendix C.

## SUPREME JUDICIAL COURT

During the year ending August 31, 1934, the Full Bench decided 422 cases, including 1 case in which there were rescripts but no opinions. There was also 1 advisory opinion of the justices rendered at the request of the legislature, making a total of 423.

as to read as follows:—Section 85A. In all actions to recover damages for injuries to the person or to property or for the death of a person, arising out of an accident or collision in which a motor vehicle was involved and in suits to reach and apply the obligation of an insurance company under clause (10) of section three of chapter two hundred and fourteen, evidence that at the time of such accident or collision it was registered in the name of the defendant as owner shall be prima facie evidence that it was then being operated by and under the control of a person for whose conduct the defendant was legally responsible, and absence of such responsibility shall be an affirmative defence to be set up in the answer and proved by the defendant.

Senate 360 reads as follows:

An Act creating a Presumption of Agency in Certain Proceedings in Equity to Charge Insurance Companies under Policies of Insurance against Liability for Loss or Damage growing out of Accidents involving Motor Vehicles.

Subsection ten of section three of chapter two hundred and fourteen of the General Laws, as appearing in the Tercentenary Edition, is hereby amended by adding at the end thereof the following new sentence:—

In any such suit growing out of an accident or collision in which a motor vehicle was involved, evidence that at the time the loss or damage was sustained the vehicle was registered in the name of the person specified in the policy as the owner thereof shall create a presumption of fact that it was then being operated by and under the control of a person for whose conduct such person so specified was legally responsible.

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Table of Cases decided by the Supreme Judicial Court, 1875-1934

| COURT<br>YEAR<br>ENDING<br>AUG 31 | Number<br>of<br>Cases<br>Decided | Reported in the<br>Following Volumes<br>of Massachusetts<br>Reports | COURT<br>YEAR<br>ENDING<br>AUG. 31 | Number<br>of<br>Cases<br>Decided | Reported in the<br>Following Volume<br>of Massachusetts<br>Reports |
|-----------------------------------|----------------------------------|---|------------------------------------|----------------------------------|--|
| 1875                              | 394                              | 115-118   | 1905                               | 384                              | 186-188  |
| 1876                              | 418                              | 118-120   | 1906                               | 484                              | 188-192  |
| 1977                              | 403                              | 120- 123  | 1907                               | 441                              | 192-196  |
| 1878                              | 388                              | 123-125   | 1908                               | 397                              | 196-199  |
| 1879                              | 334                              | 125-127   | 1909                               | 413                              | 199-203  |
| 1880                              | 316                              | 127-129   | 1910                               | 356                              | 203-206  |
| 1881                              | 372                              | 129-131   | 1911                               | 390                              | 206-209  |
| 1882                              | 293                              | 131-133   | 1912                               | 388                              | 209-212  |
| 1883                              | 344                              | 133-135   | 1913                               | 427                              | 212-215  |
| 1884                              | 374                              | 135-137   | 1914                               | 472                              | 215-218  |
| 1885                              | 367                              | 137-140   | 1915                               | 432                              | 218-221  |
| 1886                              | 385                              | 140-142   | 1916                               | 433                              | 221-224  |
| 1887                              | 399                              | 142-145   | 1917                               | 417                              | 224-228  |
| 1888                              | 321                              | 145-147   | 1918                               | 391                              | 228-231  |
| 1889                              | 349                              | 147-149   | 1919                               | 340                              | 231-233  |
| 1890                              | 344                              | 149-152   | 1920                               | 341                              | 233-236  |
| 1891                              | 321                              | 152-154   | 1921                               | 378                              | 236-239  |
| 1892                              | 422                              | 154-157   | 1922                               | 356                              | 239-242  |
| 1893                              | 354                              | 157-159   | 1923                               | 397                              | 242-246  |
| 1894                              | 341                              | 159-162   | 1924                               | 422                              | 246-249  |
| 1895                              | 333                              | 162-164   | 1925                               | 419                              | 249-253  |
| 1896                              | 356                              | 164-166   | 1926                               | 483                              | 253-257  |
| 1897                              | 371                              | 166-169   | 1927                               | 515                              | 257-261  |
| 1898                              | 397                              | 169-172   | 1928                               | 467                              | 261-264  |
| 1899                              | 339                              | 172-174   | 1929                               | 496                              | 264-267  |
| 1900                              | 366                              | 174-176   | 1930                               | 487                              | 268-271  |
| 1901                              | 381                              | 176-179   | 1931                               | 459                              | 271-276  |
| 1902                              | 381                              | 179-182   | 1932                               | 427                              | 276-280  |
| 1903                              | 348                              | 182-184   | 1933                               | 404                              | 280-283  |
| 1904                              | 354                              | 184-186   | 1934                               | 423*                             | 283-287  |

The report of the last case decided in the court year 1933-1934 is at about the middle of volume 287, which will be published early in 1935.

\*Of these, one was an advisory opinion. During this period, there was one case decided in which there was filed a rescript but no opinion.

P.

## SUPREME JUDICIAL COURT ENTRIES FOR ALL COUNTIES

For the Year Beginning September 1, 1933, through August 31, 1934 (Not including full bench cases)

| COUNT      | Υ |     | Equity | Trans-<br>ferred to<br>Superior<br>Court | Referred<br>to<br>Masters<br>or Auditors | Prerogative<br>Writs | Petitions<br>for<br>Admission<br>to Bar | Other<br>Proceedings |
|------------|---|-----|--------|--|--|----------------------|---|----------------------|
| Barnstable |   |     |        |  |  |                      | 1                                       | _                    |
| Berkshire  |   |     | -      | -  | 1  | 2                    | 3                                       | -                    |
| Bristol    |   | - 1 | 1      | -  | -  | ī                    | 3                                       | ~                    |
| Dukes      |   |     |        |  | -  | 7                    |   |                      |
| Essex .    |   |     | 8      | 1  | 1  | 22                   |   | 4                    |
| Franklin   |   |     | -      |  | 1 referred<br>auditor                    |                      |   | 1                    |
| Jampden    |   |     | -      | -  |  | 9<br>2<br>15         | 2                                       | -                    |
| Iampshire  |   |     | -      | 40                                       | -  | 2                    | 1                                       | 6                    |
| Middlesex  |   |     | . 11   | 1  | 3  | 15                   |   |                      |
| Vantucket  |   |     | -      |  |  |                      | -                                       | -                    |
| Norfolk    |   |     | 2      | -  | -  | 3                    |   | 2                    |
| Plymouth   |   |     | 1      | -  |  | 3                    | 1                                       |                      |
| Suffolk    |   |     | 61     | 8  | 8 referred<br>master                     | 64                   | 1,109                                   |                      |
| Worcester  |   | .   | 4      | -  |  | 5                    | -                                       |                      |
| Totals     |   |     | 88     | 10                                       | 12                                       | 126                  | 1,120                                   | 13                   |

## SUPREME JUDICIAL COURT ENTRIES FOR SUFFOLK COUNTY SEPTEMBER 1, 1933, TO SEPTEMBER 1, 1934

| Transferred<br>to<br>Superior<br>Court             | Referre<br>to<br>Maste |         | F      | rerog:<br>Wri |        |        | Adm    | itions<br>or<br>ission<br>Bar |   |                |
|--|------------------------|---------|--------|---------------|--------|--------|--------|-------------------------------|---|----------------|
| 8  | 8                      |         |        | 64            |        |        | 1.     | 109                           |   |                |
| Law Docket   |                        |         |        |               |        |        |        |                               |   |                |
| Petitions for admission to the Ba                  | r .                    |         |        |               |        |        |        |                               |   | 1.109          |
| Petitions for writs of Mandamus                    |                        |         |        |               |        |        |        |                               |   | 27             |
| Petitions for writs of Habeas Cor                  | pus .                  |         |        |               |        |        |        |                               |   | 9              |
| Petitions for writs of Certiorari .                |                        |         |        |               |        |        |        |                               |   | 11             |
| Petitions for writs of Error .                     |                        |         |        |               |        |        |        |                               |   | 10             |
| Petitions for writs of Prohibition                 |                        |         |        |               |        |        |        |                               |   |                |
| Petitions for Disbarment                           |                        |         |        |               | _      |        |        |                               |   | 6              |
| Petitions for Reinstatement                        |                        |         |        |               |        |        |        |                               |   | 4              |
| Petition for stay of execution und                 | ler G.L.               | (Ter    | Ed.)   | c. 279        | n. 4   |        |        |                               |   | 1              |
| Information under the nature of                    |                        |         |        |               | ,      |        |        |                               |   | 1              |
| In re "Fraudulent Practices" (Re                   |                        |         |        | ners f        | filed) |        |        |                               |   | - 4            |
| Appeals under Chap. 218, Acts of                   |                        |         |        |               | aiou,  |        |        |                               |   | 2              |
| Application under G. L. Chap. 1                    | 23. s. 91              |         |        |               |        |        |        |                               |   | 1              |
| approximation under co. in camp. a                 | 20, 5. 52              |         |        |               |        |        |        |                               | _ |                |
| Total entries on Law Doc                           | ket .                  |         |        |               |        |        |        |                               |   | 1.193          |
| Suits in Equity<br>Informations by the Attorney Ge | neral (fo              | or fail | ure to | file co       | orpora | tion r | eturns | , etc.)                       |   | 1,193          |
| Total entries on both Dockets                      |                        |         |        |               |        |        | 4      |                               |   | 1.253<br>2,440 |

# SUPERIOR COURT CIVIL CASES, 1924-1934

|               |   |   | CAB    | CASES ENTERED  | KED     | To     | COTAL ENTERED | RED      |       |          | NUMBE             | NUMBER TRIED DURING THE YEAR | URING TH | E YEAR   |        |         |
|---------------|---|---|--------|----------------|---------|--------|---------------|----------|-------|----------|-------------------|------------------------------|----------|----------|--------|---------|
| YEAR ENDING   |   |   | Sur    | SUFFOLK COUNTY | INTY    |        | IN STATE      |          |       | N SUFFOL | IN SUFFOLK COUNTY |                              |          | IN STATE | 1      |         |
|               |   |   | Law    | Equity         | Divorce | Law    | Equity        | Divo: 6e | Jury  | Jury     | Equity            | Divorce                      | Jury     | Jury     | Equity | Divorce |
| June 30, 1924 |   |   | 9,923  | 1,809          | 565     | 21,964 | 3,230         | 1,412    | 1,569 | 274      | 292               | 589                          | 2,594    | 563      | 475    | 1,571   |
| 30,           |   |   | 10,034 | 1,615          | 306     | 23,090 | 3,009         | 906      | 1,695 | 209      | 391               | 274                          | 3,022    | 514      | 562    | 202     |
| 30,           |   |   | 1      | 1              | 1       | 23,223 | 3,316         | 1        | 1,074 | 337      | 445               | 1                            | 2,735    | 668      | 683    | 1       |
| 30,           |   |   | 11,863 | 2,135          | 104     | 24,516 | 3,655         | 554      | 1,149 | 380      | 342               | 88                           | 2,857    | 969      | 109    | 452     |
| 30,           |   |   | 16,270 | 1,920          | 40      | 32,551 | 3,392         | 469      | 1,053 | 350      | 404               | 43                           | 2.672    | 699      | 629    | 402     |
| 30, 1         |   |   | 16,562 | 2,011          | 27      | 33,165 | 3,502         | 365      | 1,089 | 243      | 378               | 26                           | 2.517    | 490      | 536    | 285     |
| 30, 1         |   | , | 17,584 | 2,133          | 11      | 35,190 | 3,642         | 196      | 1,069 | 325      | 441               | 16                           | 2.684    | 617      | 632    | 271     |
| 30, 1         |   |   | 18,370 | 2,120          | 17      | 36,190 | 3,604         | 1111     | 1.063 | 362      | 312               | 7                            | 2.533    | 808      | 510    | 122     |
| 30, 1         |   |   | 16,209 | 1,846          | 9       | 34,464 | 3,411         | 81       | 996   | 335      | 398               | 10                           | 2,505    | 725      | 605    | 92      |
| 30, 1         |   | , | 12,210 | 1,883          | 21      | 28,587 | 3,536         | 67       | 787   | 695      | 400               | 2                            | 2,080    | 1.319    | 909    | 63      |
| 30, 1         | , |   | 10.412 | 1.630          |         | 25.446 | 2 951         | OO       | 840   | 480      | 415               | 6                            | 9 121    | 1 000    | 596    | 6.5     |

# SUPERIOR COURT CRIMINAL CASES, 1928-1934

| Ξ      | OR    | EAR | For Year Ending | DNI |   | Number of<br>Indictments<br>Returned | Number of<br>Appealed<br>Cases<br>Entered | Number of<br>Cases Tried | Number of<br>Actions on<br>Bail Bonds or<br>Recognisance<br>Entered |
|--------|-------|-----|-----------------|-----|---|--------------------------------------|---|--------------------------|---|
| June 3 | 30, 1 | 928 |                 |     |   | 4,005                                | 10.455                                    | 2.192                    | 287   |
|        | _     | 929 |                 |     |   | 4,054                                | 11.926                                    | 2.553                    | 218   |
|        | _     | 930 |                 |     |   | 4.532                                | 9.559                                     | 2.521                    | 161   |
|        | _     | 931 |                 |     |   | 5,525                                | 9.901                                     | 3.308                    | 121   |
|        | _     | 932 |                 |     | , | 6.519                                | 10.421                                    | 3.371                    | 206   |
|        | -     | 933 |                 |     |   | 6,090                                | 9.324                                     | 53.427                   | 22  |
|        | -     | 934 |                 |     |   | 5.203                                | 10.742                                    | 3.537                    | 120   |

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# REFERENCES TO AUDITORS AND MASTERS IN THE SUPERIOR COURT

|          | 0 | COUNTY | LL |  |   |   |     |      | AUD  | AUDITOR    |      | MASTER       |       |
|----------|---|--------|----|--|---|---|-----|------|------|------------|------|--------------|-------|
|          |   |        |    |  |   |   |     |      | Jan. | 1-Sept. 30 |      | Jan. 1-Sept. | t. 30 |
|          |   |        |    |  |   |   |     | 1933 |      | 1934       | 1933 | 193          | eds.  |
| rnstable | * |        | *  |  |   |   | *   | 9    |      | 00         | 9    | 4            |       |
| rkshire  | * |        |    |  |   |   |     | 00   |      | 10         | 0    | 60           |       |
| stol .   |   |        |    |  | , | , |     | 14   |      | 7          | 35   | 23           |       |
| Евех .   |   |        |    |  |   |   |     | 16   |      | 15         | 19   | 37           |       |
| unklin   |   | ,      |    |  |   |   |     | 14   |      | 1          | 00   | 9            |       |
| mpden    |   |        |    |  |   |   |     | 26   |      | 00         | 20   | 15           |       |
| mpshire  |   |        |    |  |   |   |     | 22   |      | 6          | 19   | 4            |       |
| ddlesex  |   |        |    |  |   |   |     | 21   |      | 6          | 72   | 51           |       |
| rfolk    |   |        |    |  |   |   |     | 12   |      | 6          | 24   | 11           |       |
| mouth    |   |        |    |  |   |   | . , | 14   |      | 00         | 20   | 2            |       |
| folk .   |   |        |    |  |   |   |     | 75   |      | 12         | 268  | 65           |       |
| reester  |   |        |    |  |   |   |     | 37   |      | 6          | 48   | 28           |       |
|          |   |        |    |  |   |   |     | 1    |      | -          | 1    |              |       |
|          |   |        |    |  |   |   |     | -    |      | -          | -    |              |       |

Two or more cases tried together are counted as one reference.

# AUDITORS, MASTERS AND REFEREES AMOUNTS EXPENDED 1925-1933 BY COUNTIES

| County       |   | 1925         | 1926         | 1927         | 1928         | 1929         | 1930         | 1931         | 1932         | 1933         |
|--------------|---|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Barnatable . |   | \$795 83     | \$631.23     | \$1.066 58   | 1            |              |              |              | \$1.491.25   |              |
| Berkshire .  |   | 1,227 92     | 1,535 80     | 3,225 60     | 2,103 61     | 5,864 27     | 2,796 39     | 2,987 08     | 6,173 25     | 2,355 59     |
| Bristol      |   | 3,468 36     | 4,959 28     | 5,333 79     |              |              |              |              | 9.975 70     |              |
| Dukes        |   | 15 00        | 202 71       | 08 86        |              |              |              |              | 1            |              |
| Fasex        |   | 15,278 77    | 13,531 28    | 14,570 83    |              |              |              |              | 35,547 62    | 21,259 22    |
| Franklin     |   | 347 00       | 1,673 14     | 1,249 42     |              |              |              |              | 1,690 81     | 1.201 49     |
| Hampden .    | * | 6,219 79     | 15,362 85    | 13,411 80    |              |              |              |              | 21,294 31    | 19,045 76    |
| Hampshire    | , | 1,487 18     | 1,815 21     | 2,321 39     |              |              |              |              | 3,065 00     | 3.648 51     |
| Middlesex .  | × | 28,184 55    | 23,864 70    | 23,976 96    |              |              |              |              | 50,717 47    | 39,164 50    |
| Nantucket .  |   | 92 50        | 20 00        | 1            |              |              |              |              | 265 00       | 453 12       |
| Norfolk .    |   | 4,241 13     | 4,953 15     | 3,941 73     |              |              |              |              | 17,839 56    | 13,625 44    |
| Plymouth .   |   | 5,066 60     | 8,374 77     | 5,703 12     |              |              |              |              | 9,645 82     | 8.832 48     |
| Suffolk      |   | 94,313 05    | 59,027 78    | 67,920 79    | 66,906 72    | 68,598 79    |              |              | 116,377 42   | 74.324 36    |
| Worcester    | × | 11,707 43    | 10,471 07    | 10,341 14    |              |              | 8,164 13     |              | 34,233 25    | 21,702 05    |
|              |   | \$172,445 11 | \$146,452 97 | \$153,162 05 | \$162,246 19 | \$161,385 97 | \$170,351 86 | \$182,014 20 | \$308,316 46 | \$216,062 03 |

Norm: In Suffolk County these figures apply to the Superior Court (civil) only. In other counties they apply to all courts. During the first 9 months of 1932 auditors were used in many tort cases.

14

## LAND COURT

| or the Year 1933;      |        |      |             |         |       |             |        |         |           |      |      |   |              |
|------------------------|--------|------|-------------|---------|-------|-------------|--------|---------|-----------|------|------|---|--------------|
| Registration Cases     |        | *    |             |         |       |             |        |         |           |      |      |   | 206          |
| Confirmation Cases     |        |      |             |         |       |             |        |         |           |      |      |   | 5            |
| Post Registration Ca   | ses    |      |             |         |       |             |        | ,       |           | *    |      |   | 352          |
| Tax Lien Cases         |        |      |             |         |       |             |        |         |           |      |      |   | 595          |
| Miscellaneous Cases    | 0      | .0.  |             |         |       |             |        | *       |           |      |      | e | 79           |
| Total Cases Ente       | ered   |      |             |         |       |             |        |         |           |      |      |   | 1.236        |
| Decree Plans Made      |        |      |             |         |       |             |        |         |           |      |      |   | 243          |
| Subdivision Plans Ma   | ade    |      |             |         |       |             |        |         |           |      |      |   | 215          |
| Total Plans Made       |        |      |             |         |       |             |        |         |           |      |      |   | 458          |
| Total Appropriation    |        |      |             |         |       |             |        |         |           |      |      |   | 92,960.48    |
| Fees sent State Treas  | HITEL  |      |             |         |       |             |        |         |           | -    |      |   | 25,170.91    |
| Income from Assuran    | ce F   | und  | Applie      | able to | Ex    | nenses      | (G. L. | Chan.   | 185.      | Sec. | 106) |   | 10,569.77    |
| Unexpended Balance     |        |      |             |         |       |             | ,      |         |           |      |      |   | 10,221.99    |
| Net Cost to Common     | weal   | th   |             |         |       |             |        |         |           |      |      |   | 36,775.82    |
| Assurance Fund, Nov    |        |      | 0. 1933     |         |       |             |        |         |           |      |      |   | 238,211,25   |
| Assessed Value of La   |        |      |             |         | iatro | tion a      | nd Co  | nfirmai | ion       | 1933 |      | 0 | 2,429,440.75 |
| THE PERSON AND THE THE | MAN UL | - 40 | Serve Off 1 | AL TROP | 10110 | ABUTATE CO. | -      | *****   | rewally . |      |      |   |              |

## Cases disposed of by final order, decree or judgment after hearing:

| LAND REGISTRATION                                |   |   |   |  | 275       |
|--|---|---|---|--|-----------|
| LAND REGISTRATION (Supplementary)                |   |   |   |  | 352       |
| TAX TITLE EQUITY, REAL ACTIONS and MISCELLANEOUS |   |   |   |  | 413<br>70 |
| Equiti, REAL ACTIONS and MISCELLANEOUS           | 4 | ۰ | ٠ |  | 70        |
|  |   |   |   |  | 1,110     |

## PROBATE COURTS

## Entries in 1933.

| Counties   |   |   |   |      |   |  | Probate<br>Entries | Divorce<br>Entries  |
|------------|---|---|---|------|---|--|--------------------|---------------------|
| Barnstable |   |   |   | <br> |   |  | <br>365            | 60                  |
| Berkshire  |   |   |   |      |   |  | 727                | 130<br>2 Annulments |
| Bristol .  |   |   |   |      |   |  | 1,556              | 360                 |
| Dukes .    |   | - |   |      |   |  | 74                 | 9                   |
| Essex .    |   |   |   |      | , |  | 2,637              | 484                 |
| Franklin   |   |   |   |      |   |  | 349                | 48                  |
| Hampden    |   |   |   |      |   |  | 1,331              | 280                 |
| Hampshire  |   |   |   |      |   |  | 437                | 52                  |
| Middlesex  |   |   |   |      |   |  | 5,126              | 1.034               |
| Nantucket  |   |   | 0 |      |   |  | 47                 | 4                   |
| Norfolk .  |   |   | 0 |      |   |  | 1,933              | 311                 |
| Plymouth   |   |   |   |      |   |  | 1,933              | 311                 |
| rlymouth   |   | 0 |   |      |   |  | 1,072              | 94                  |
| Suffolk .  |   |   |   |      |   |  | 4,786              | 1,283               |
| Worcester  | 0 |   |   |      |   |  | 2,688              | 427                 |
| Total      |   |   |   |      |   |  | 23,128             | 4,578               |

Further details from the counties of Suffolk, Middlesex, Hampden and Berkshire will be found in Appendix C.

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## MUNICIPAL COURT OF THE CITY OF BOSTON CIVIL ACTIONS (OTHER THAN SMALL CLAIMS CASES)

| YEAR          | Entered | Removed | Per Cent | All Defaults | Per Cent of<br>Entries | Tried | Per Cent of<br>Entries | Total Plaintiffs'<br>Judgments | Average Plaintiffs'<br>Judgment Con-<br>tract only | Heard, Appellate<br>Division | Per Cent of<br>Trials | To Supreme<br>Judicial Court |
|---------------|---------|---------|----------|--------------|------------------------|-------|------------------------|--------------------------------|--|------------------------------|-----------------------|------------------------------|
| YEAR<br>1913. | 14.005  | 441     | 3.1      | 7,067        | 50                     | 1.735 | 12                     | \$1,008,147                    | \$115.10   | 74                           | 4.2                   | 11                           |
| 1914 .        | 15,173  | 501     | 3.3      | 7,681        | 50                     | 1,676 | 11                     | 976,320                        | 103.45   | 88                           | 5.2                   | 18                           |
| 1915 .        | 16,077  | 401     | 2.4      | 7,848        | 49                     | 1,587 | 10                     | _                              | -  | -                            |                       | 0                            |
| 1916 .        | 16,095  | 401     | 2.4      | 7,707        | 47                     | 1,760 | 11                     | 1,117,059                      | 104.69   | 93                           | 5.8                   | 19                           |
| 1917 .        | 15,552  | 424     | 2.7      | 7,189        | 46                     | 1,745 | 11                     | 1,203,926                      | 126.58   | 88                           | 5.0                   | 10                           |
| 1918 .        | 12,786  | 380     | 2.9      | 6,381        | 49                     | 1,290 | 10                     | 1,043,886                      | 120.32   | 84                           | 6.5                   | 6                            |
| 1919 .        | 12,204  | 408     | 3.3      | 5,511        | 45                     | 1,554 | 12                     | 925,275                        | 157.46   | 76                           | 4.8                   | 24                           |
| 1920 .        | 13,702  | 477     | 3.4      | 6,078        | 44                     | 1,745 | 12                     | 1,065,379                      | 132.97   | 94                           | 5.4                   | 18                           |
| 1921 .        | 18,640  | 677     | 3.6      | 7,302        | 39                     | 2,203 | 11                     | 1,563,293                      | 146.82   | 93                           | 4.2                   | 15                           |
| 1922 .        | 19,948  | 476     | 2.386    | 10,106       | 50                     | 2,201 | 11                     | 1,877,970                      | 154.10   | 106                          | 4.8                   | 10                           |
| 1923 .        | 21,805  | 746     | 3.4      | 10,589       | 48                     | 2,397 | 11                     | 2,019,262                      | 158.49   | 77                           | 3.2                   | 20                           |
| 1924 .        | 23,820  | 907     | 3.8      | 11,239       | 47                     | 2,636 | 11                     | 2,256,391                      | 149.86   | 79                           | 3.0                   | 14                           |
| 1925 .        | 26,482  | 1,263   | 4.8      | 13,149       | 49                     | 2,661 | 10                     | 2,529,877                      | 156.28   | 103                          | 3.8                   | 18                           |
| 1926 .        | 30,830  | 1,505   | 4 1/4    | 15,184       | 49                     | 2,928 | 9                      | 2,980,009                      | 163.74   | 92                           | 3.1                   | 22                           |
| 1927 .        | 36,025  | 1,303   | 3.6      | 18,129       | 50                     | 3,342 | 9.2                    | 3,579,613.41                   | 152.05   | 104                          | 3.1                   | 21                           |
| 1928 .        | 37,441  | 1,039   | 2.7      | 19,181       | 51                     | 3,740 | 9.9                    | 3,146,170.07                   | 148.13   | 141                          | 3.7                   | 14                           |
| 1929 .        | 39,676  | 992     | 2.5      | 20,114       | 50                     | 3,863 | 9.7                    | 4,154,206.96                   | 154.00   | 112                          | 2.9                   | 14                           |
| 1930 .        | 39,557  | 1,251   | 3.2      | 17,235       | 43                     | 4,131 | 10                     | 5,035,129.23                   | 181.61   | 118                          | 2.8                   | 9                            |
| 1931 .        | 39,948  | 1,235   | 3.1      | 12,356       | 31                     | 4,290 | 11                     | 5,141,389.85                   | 210.40   | 107                          | 2.5                   | 14                           |
| 1932 .        | 38,103  | 1,199   | 3.1      | 12,155       | 31                     | 4,160 | 11                     | 4,935,040.65                   | 212.92   | 143                          | 3.4                   | 16                           |
| 1933          | 31,421  | 1,189   | 3.71     | 10,463       | 33†                    | 3,584 | 11†                    | 4,514,361.80                   | 242.56   | 132                          | 3.†                   | 30                           |

The jurisdictional limits in civil cases from 1866 to 1877 were \$300; from 1877 to 1894, \$1,000; from 1894 to 1922, \$2,000; from 1922 to September 1, 1929, \$5,000; since September 1, 1929, the jurisdiction has been unlimited in amount.

In 1933 there were 1,925 supplementary process cases and 1,043 small claims cases in this court (see Appendix C).

## CRIMINAL STATISTICS FOR THE YEAR ENDING SEPTEMBER 30, 1934

| Cases Pending (include   | in Defa   | ult bef   | ore Tr  | ial)  |       |      |         |       |      |        |       |        |     | 34    |
|--------------------------|-----------|-----------|---------|-------|-------|------|---------|-------|------|--------|-------|--------|-----|-------|
| Cases Begun              |           |           |         |       |       |      |         |       |      |        |       |        |     | 36,80 |
| Discharged, nol prossed, | and p     | laced or  | n file  |       |       |      |         |       |      |        |       |        |     | 53    |
| Pleas of Guilty          |           |           |         |       |       |      |         |       |      |        |       |        |     | 11.90 |
| Pleas of Not Guilty, inc | luding    | pleas of  | f nolo  | conte | ender | e.   |         |       |      |        |       |        |     | 5.62  |
| indings of Guilty .      |           |           |         |       |       |      |         |       |      |        |       |        |     | 17.53 |
| indings of Not Guilty    |           |           |         |       |       |      |         |       |      |        | -     |        |     | 1.61  |
| Bound Over               |           |           |         |       |       |      |         |       |      |        |       | ۰      |     | 60    |
| entences Appealed to S   | uperio    | r Court   |         |       |       |      |         |       |      |        |       |        |     | 2.43  |
| MOTOR VEHICLE OFF        | ENCES     | Myrara    | CIDAY ( | COTTR | TOP   | Rost | ON F    | w V.  | AD E | MIDING | Smoon | Esenen | 20  | 1024  |
| Summons Issued:          | ELIV CENS | 114 0 141 | CIFAD   | COUR  | I OF  | DOGI | 014, 21 | JE IE | AB E | MDING  | SEPTI | EMBER  | 00, | 1994  |
| Violation automobi       | lo law    |           |         |       |       |      |         |       |      |        |       |        |     | 1.01  |
| Violation automobi       |           |           | land.   |       |       |      |         |       |      |        |       |        |     | 1,0   |
| Violation Traffic Ru     |           | -appea    | tea     | 0     |       |      |         |       |      |        |       |        |     |       |
|                          |           |           |         |       |       |      |         |       |      |        |       |        |     | 7,1   |
| Violation Traffic Ru     | ules—A    | ppeale    | CE      |       |       |      |         |       |      |        |       |        |     | 41    |
| Number of Inquests .     |           |           |         |       |       |      |         |       |      |        |       |        |     | 15    |

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## BOSTON JUVENILE COURT

The Boston Juvenile Court, created in 1906, is a separate court with jurisdiction in juvenile cases in the central district of Boston.

## ENTRIES FOR THE YEAR ENDING SEPT. 30, 1934

Delinquent, 763; juvenile criminal, 4; neglected, 26; adult criminal, 4. Total, 797.

In connection with these figures, it should be remembered that in many of the cases the boy is placed on probation or otherwise kept under supervision by the court through the probation officer and that in addition to the "cases" of new complaints entered on the docket and reported in the annual returns to the Department of Correction, the advice and assistance of the judge is constantly sought by parents in informal conferences in cases which do not reach the stage of a formal complaint by anyone.

## TRIAL JUSTICES

There were presented to the ten trial justices now in the Commonwealth during the year 2,039 criminal cases as shown below. Trial justices have no civil jurisdiction.

## CRIMINAL CASES BEFORE TRIAL JUSTICES FOR THE YEAR ENDING SEPTEMBER 30, 1934

| Trial Justice                       |   | Cases<br>Pending<br>Sept. 30,<br>1933 | No. Cases<br>Begun<br>During<br>Year | No. Cases<br>Appealed | No. Cases<br>Bound<br>Over to<br>Grand<br>Jury | No. Cases<br>Pending<br>Sept. 30,<br>1934 |
|-------------------------------------|---|---------------------------------------|--------------------------------------|-----------------------|--|---|
| Colver J. Stone, Andover            |   | -                                     | 111                                  | 1                     | 6  | -   |
| Cornelius J. Mahoney, North Andover |   | 22                                    | 91                                   | 2                     | 18   | 27  |
| John L. Smith, Barre                |   | -                                     | 87                                   | 4                     | 3  | 1   |
| John R. Healy, Hardwick             |   | 2                                     | 56                                   | -                     | -  | -   |
| Daniel J. Riley, Hopkinton          |   | -                                     | 9                                    | -                     | -  | (For dis-                                 |
| Fred E. Morris, Hudson              |   | 7                                     | 162                                  | 4                     | 4  | position)                                 |
| George B. Haas, Ludlow              |   |                                       | 357                                  | 1                     | 2  | -   |
| Luke B. Colbert, Marblehead         |   | -                                     | 273                                  | 2                     | 11   | 2   |
| Walter H. Southwick, Nahant         |   | -                                     | 283                                  | -                     | 12   | -   |
| William S. Ludden, Saugus           |   | 15                                    | 610                                  | 11                    | 16   | 21  |
| Totals                              | . | 46                                    | 2,039                                | 25                    | 72   | 54  |

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## DEPARTMENT OF INDUSTRIAL ACCIDENTS

Of the 96,144 accident reports filed with the department during the year 1933, 31,769 were for injuries causing the loss of at least one day or one shift, called in the report of the department "tabulatable injuries." Of this latter number 1,207 cases were not insured. and how many of them ripened into lawsuits we do not know. Neither can we know how many of the remaining 30,562 cases would in fact have gone before our courts if they had not been adjusted before the Industrial Accident Board, but 162 of these 31,769 cases resulted in death, 8 in permanent total disability, 602 in permanent partial disability, and that 67.5 per cent of the remainder represent a temporary disability of more than a week. The Board is not a court, but an administrative commission. It was in part created to relieve our courts of the congestion of cases growing out of the relation of master and servant. In addition to its administrative duties. the Board, and its members, hold several thousands of hearings each year to determine questions of fact and law arising under the Workmen's Compensation Act.

There was paid by the various authorized insurance companies operating under this act the sum of \$5,856,868.43 during the year 1933 at a gross cost of \$202,023.48. As there were receipts of \$23,508.11 to be credited, the net cost to the Commonwealth was \$178,515.37.

## DEPARTMENT OF INDUSTRIAL ACCIDENTS

1927 - 1933

|      | Accident<br>Reports<br>Filed | "Tabulated<br>Injuries" | Not<br>Insured | Resulting<br>in Death | Permanent<br>Total<br>Disability | Permanent<br>Partial<br>Disability | Temporary<br>Disability |
|------|------------------------------|-------------------------|----------------|-----------------------|----------------------------------|------------------------------------|-------------------------|
| 1927 | 168.057                      | 64,167                  | 5.221          | 317                   | 17                               | 1.232                              | 60.5 of remainder       |
| 1928 | 158,990                      | €0,330                  | 3,989          | 340                   | 12                               | 1,197                              | 62.4 " "                |
| 1929 | 160,183                      | 60,195                  | 2,967          | 353                   | 4                                | 1.352                              | 61.9 " "                |
| 1930 | 170,663                      | 61,741                  | 2,658          | 344                   | 7                                | 1,179                              | 64.3 " "                |
| 1931 | 144.133                      | 50,006                  | 2.018          | 282                   | 5                                | 1.031                              | 65 " "                  |
| 1932 | 123,517                      | 42.067                  | 1.553          | 222                   | 7                                | 864                                | 66.7 " "                |
| 1933 | 94.144                       | 31.769                  | 1.207          | 162                   | 8                                | 602                                | 67.5 " "                |

|      | Compensation<br>Paid by Companies | Gross Cost<br>to Commonwealth | Receipts    | Net Cost<br>to Commonwealth |
|------|-----------------------------------|-------------------------------|-------------|-----------------------------|
| 1927 | \$8,018,634.38                    | \$194,550                     | \$17,330.79 | \$177,219.21                |
| 1928 | 8,976,147.18                      | 228,694,59                    | 19,937.30   | 208,757.29                  |
| 1929 | 9,461,962.31                      | 207,165,78                    | 25,518.50   | 181,647.28                  |
| 1930 | 9,861,383.09                      | 214,907,16                    | 26,819.42   | 188,087.74                  |
| 1931 | 8,978,038.04                      | 229,586,89                    | 33,740.28   | 195,846.61                  |
| 1932 | 7,820,043.54                      | 219,557,79                    | 29,026.25   | 190,531.54                  |
| 1933 | 5,856,868.43                      | 202,023,48                    | 23,508.11   | 178,515.37                  |

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## BOARD OF TAX APPEALS

The state Board of Tax Appeals is an administrative tribunal, to which have been transferred some of the functions formerly imposed on the Superior Court. It came into existence on December 1, 1930, under St. 1930, c. 416, later amended by St. 1931, c. 218, and St. 1933, c. 321.

## SUMMARY OF REAL ESTATE TAX APPEALS

COMBINED FORMAL AND INFORMAL PROCEDURE

| (The State, as a whole)   |  |     | 1931      | 1932         | 1933         | 1934           |
|---|--|-----|-----------|--------------|--------------|----------------|
| Total appeals pending at beginning of year<br>Total appeals entered (net) during year |  |     | 0<br>235  | 145<br>1,067 | 834<br>2,762 | 2,042<br>3,367 |
| Total number before Board during year<br>Less:<br>Settled or withdrawn during year    |  |     | 235<br>39 | 1,212<br>250 | 3,596<br>832 | 5,769<br>1,839 |
| Net total to be decided by Board<br>Appeals decided by Board during year              |  |     | 176<br>31 | 962<br>128   | 2,764<br>362 | 3,830<br>574   |
| Appeals pending at end of year  |  | . 1 | 145       | 834          | 2,402        | 3,256          |

## APPEALS FROM COMMISSIONER OF CORPORATIONS AND TAXATION

|                    |            |                 |       |        |     |   |   | 1 | 1931     | 1932     | 1933     | 1934     |
|--------------------|------------|-----------------|-------|--------|-----|---|---|---|----------|----------|----------|----------|
| Pending a          | at be      | ginni<br>ng yea | ng of | year   |     |   |   |   | 0<br>66  | 27<br>47 | 26<br>42 | 24<br>25 |
| Tota<br>Settled of | l<br>r wit | hdrav           | vn du | ring y | ear | 1 | : |   | 66<br>9  | 74<br>14 | 68<br>17 | 49<br>15 |
| Net<br>Decided     |            |                 |       | :      | :   |   |   | : | 57<br>30 | 60<br>34 | 51<br>27 | 34<br>17 |
| Pending            | at er      | d of            | year  |        |     |   |   | 1 | 27       | 26       | 24       | 17       |

From December 1, 1930, to November 30, 1934, 41 Claims of Appeal to the Supreme Judicial Court were filed with the Board; 7 of these were abandoned before the record was made up by the clerk, and 34 records were delivered to the appealing parties. The Board has no knowledge as to how many were actually entered in the Supreme Judicial Court.

## Respectfully submitted,

| T. HOVEY GAGE, Chairman. | ARTHUR W. DOLAN.     |
|--------------------------|----------------------|
| FREDERICK LAWTON.        | CHARLES L. HIBBARD.  |
| CHARLES THORNTON DAVIS.  | WILLIAM G. THOMPSON. |
| WILFRED BOLSTER.         | HERBERT B. EHRMANN.  |

FRANK W. GRINNELL.

A memorandum by Mr. Thompson appears on the following page.

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## MEMORANDUM BY MR. THOMPSON

I adhere to the views expressed in previous memoranda that unless and until certain changes can be made in the present personnel of the district court judges, there should be no further extension of the jurisdiction of the District Courts. I have not been favorably impressed by the attitude of certain district court judges selected to conduct jury trials in criminal cases in the Superior Court. The sentences imposed by them in certain instances appear to me to be too severe, and out of all relation to the gravity of the offence and the character of the defendants. To sentence to six months imprisonment foolish boys and a foolish girl, who had no previous criminal record, and were distinctly not of the criminal classes, merely for attempting without a license to address a crowd in a public square in opposition to the Hitler government of Germany, appears to me to indicate on the part of the judge a narrow and unsound view of the purpose of punishment.

WILLIAM G. THOMPSON.

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## PICTURES OF ALL DISTRICT COURTS IN MASSACHUSETTS (INTRODUCTION)

The following matter is intended to give a picture of the various courts and some major characteristics. The information is collected from various sources, and may therefore contain some errors.

Area is stated in square miles. "Density" means inhabitants per square mile, "incidence" the number of inhabitants in the district for each civil or criminal case entered. Population is by the 1930 census. Civil and criminal entries are for 1933. Costs are for 1932.

Comparison of figures indicating the work is unsafe without further analysis.

In considering comparative use of special justices allowance must be made first, for the fact that each standing justice is allowed by statute 30 days' vacation without deduction of salary, and, second, for outside duties assigned to certain standing justices from time to time as indicated in the footnotes.

## District Courts in Suffolk County

Municipal Court of the CITY OF BOSTON

Population 130,056, incidence, civil 3.4, criminal 3.

Personnel,—Justices' Division, 1 chief justice, 8 associate justices, 6 special justices, 1 messenger, 1 stenographer. Civil division, 1 clerk, 12 assistant clerks, 9 senior clerks, 16 clerks, 5 court officers. Criminal division, 1 clerk, 8 assistant clerks, 5 senior clerks, 3 clerks, 10 court officers, 2 interpreters. Probation division, 30 probation officers, 1 cashier, 1 secretary, 20 clerks, 1 medical director, 1 assistant medical director, 1 clerk.

Total operating cost (1932) \$435,710; judges' salaries, \$82,000; specials: \$8,460 for

| Criminal entries                          |                 |       | Civil writs                       |              |
|---|-----------------|-------|-----------------------------------|--------------|
| Drunks released by pro-<br>bation officer | 13,915          | 70.9% | Contract                          | 6,882        |
| Not arrested                              | 23,268<br>1,679 |       | Removed<br>Summary process (est.) |              |
| Cases in court                            | 21,589          |       | All othersSupplementary process   | 724<br>1,926 |
| Probation                                 | 2,483           |       | Small claims                      | 1,043        |

| Sentences    | In Effect | %  | Appealed | %<br>12 |
|--------------|-----------|----|----------|---------|
| Fine         | 3,761     | 88 | 477      | 12      |
| Imprisonment | 2,631     | 75 | 920      | 26      |

This court has an appellate division composed of the chief justice and such of the associate justices as he may designate from time to time.

Municipal Court of the ROXBURY District of the City of Boston

Population 153,628, incidence, civil 69, criminal 11. Personnel,—1 justice, 3 special justices, 1 clerk, 3 assistant clerks, 5 clerical assistants,

10 probation officers, 2 senior clerks, 3 clerical assistants, 4 court officers. Total operating cost (1932) \$95,844; justice, \$6,000; specials: \$11,487 for 569 days at

| Criminal entries  Drunks released by probation officer |        |         | Civil writs                                      | 171<br>379 | 2,053              |
|--|--------|---------|--|------------|--------------------|
|  | 12,010 | 41.0 70 | Removed  |            | 550<br>53          |
| Not arrested   | 11 571 |         | Summary process All others Supplementary process |            | 1,489<br>14<br>587 |
| Probation.   | 1.457  |         | Small claims                                     |            | 802                |

| Sentences      | In Effect | %  | Appealed | %  |
|----------------|-----------|----|----------|----|
| Fine           | 2,131     | 83 | 439      | 17 |
| Imprisonment   | 149       | 22 | 549      | 78 |
| Juvenile cases | 280       |    |          |    |

In 1932 the justice of this court was called to sit in the Superior Court for 97 days.

## Municipal Court of the WEST ROXBURY District of the City of Boston

Population 37,362, incidence, civil 139, criminal 33.

Personnel,—I justice, 3 special justices, 1 clerk, 2 assistant clerks, 1 office clerk, 2 probation officers, 1 clerk to probation officers, 2 court officers.

Total operating cost (1932) \$34,895; justice \$4,373), specials: \$3,549 for 224 days

| at \$15.83.<br>Criminal entries            | 3,442        | Civil writs                                 | 816        |
|--|--------------|---|------------|
| Drunks released by pro-<br>bation officers | 433 47.9%    |   | 299        |
| Not arrested                               | 3,009<br>813 | Removed                                     | 47<br>366  |
| Cases in court                             |              | All othersSupplementary processSmall claims | 399<br>506 |

| Sentences      | In Effect | %  | Appealed | %  |
|----------------|-----------|----|----------|----|
| Fine           | 832       | 82 | 184      | 18 |
| Imprisonment   |           | 31 | 127      | 68 |
| Juvenile cases | 200       |    |          |    |

## Municipal Court of the DORCHESTER District of the City of Boston

Population 172,818, incidence, civil 84, criminal 38. Personnel,—1 justice, 3 special justices, 1 clerk, 2 assistant clerks, 3 clerk's assistants, 2 probation officers, 1 clerk to probation officers, 2 court officers.

Total operating cost (1932) \$42,215; justice \$4,798), specials: \$4,082 for 206 days

| at \$19.80.<br>Criminal entries<br>Drunks released by pro- | 4,519       | Civil writs | 308 | 2,056       |
|--|-------------|-------------|-----|-------------|
| bation officers  | 1,272 70.3% | Tort        | 700 | 1.008       |
| Not arrested   | 3,247 $70$  | Removed     |     | 63<br>1,038 |
| Cases in court   | 3,177       | All others  |     | 10<br>991   |

| Probation      |           | 342 | Small    | claims |
|----------------|-----------|-----|----------|--------|
| Sentences      | In Effect | %   | Appealed | %      |
| Fine           | 685       | 77  | 204      | 23     |
| Imprisonment   | 79        | 38  | 129      | 62     |
| Juvenile cases | 232       |     |          |        |

## Municipal Court of the SOUTH BOSTON District of the City of Boston

Population 61,215, incidence, civil 151, criminal 8.

Personnel,—1 justice, 2 special justices, 1 clerk, 1 assistant clerk, 3 probation officers, 1 clerk and probation officer, 2 court officers.

Total operating cost (1932) \$28,656; justice salary, \$3,369; specials: \$2,138 for 177 days at \$14.86.

| Criminal entries                           | 7,259        | Civil writs                        | 405              |
|--|--------------|------------------------------------|------------------|
| Drunks released by pro-<br>bation officers | 3,294 70.4%  | Contract                           | 105              |
| Not arrested                               | 3,965<br>134 | Removed                            | 195<br>32<br>206 |
| Cases in court                             | 3,831<br>403 | Supplementary process Small claims | 71<br>105        |

| Sentences      | In Effect | %  | Appealed | %  |
|----------------|-----------|----|----------|----|
| Fine           | 1,243     | 90 | 138      | 10 |
| Imprisonment   | 207       | 60 | 139      | 40 |
| Juvenile cases | 344       |    |          |    |

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### EAST BOSTON District Court

Population 78,306, incidence, civil, 128, criminal 14.

Personnel,—1 justice, 2 special justices, 1 clerk, 2 assistant clerks, 2 probation officers, 2 court officers, 1 interpreter, 1 clerk.

Total operating cost (1932) \$32,824; justice salary, \$4,200; specials: \$2,231 for 161

| days at \$13.85. Criminal entries Drunks released by bation officer | 5,3<br>y pro-           | 15            | Civil writs           |                            |   |  |  |
|---|-------------------------|---------------|-----------------------|----------------------------|---|--|--|
| 3,656<br>Not arrested   |                         | Removed       |                       |                            |   |  |  |
| Cases in court  |                         | 669           | Suppl                 | ementary process<br>claims | 3 |  |  |
| Sentences Fine  | In Effect<br>384<br>112 | %<br>69<br>58 | Appealed<br>169<br>79 | -<br>%<br>31<br>42         |   |  |  |

### The District Court of CHELSEA

Juvenile cases . . . . . . . . . 647

Population 81,496, incidence, civil, 34, criminal 19.
Personnel,—1 justice, 2 special justices, 1 clerk, 1 assistant clerk, 3 clerical assistants, 4 probation officers, 2 clerical assistants, 2 court officers.

Total operating cost (1932) \$37,954; justice salary, \$3,934; specials: \$3,786 for 254

| Criminal entries                           | 4,097         |       |              | writs                | 744          | 2,409            |
|--|---------------|-------|--------------|----------------------|--------------|------------------|
| Drunks released by pro-<br>bation officers | 595           | 34.4% |              | act                  | 744<br>1,014 | 1.758            |
| Not arrested                               | $3,502 \\ 92$ |       | Summ         | demoved              |              | 409<br>622       |
| Cases in court                             | 3,410<br>637  |       | Supple       | hersementary process |              | 29<br>424<br>550 |
| Sentences In Effe<br>Fine 803              | et            | % Ap  | pealed<br>92 | -<br>%<br>11         |              |                  |

| Sentences      | In Effect | %  | Appealed | %  |
|----------------|-----------|----|----------|----|
| Fine           | 803       | 89 | 92       | 11 |
| Imprisonment   | 275       | 67 | 131      | 33 |
| Juvenile cases | 225       |    |          |    |

### The Municipal Court of the CHARLESTOWN District of the City of Boston

Population 31,663, incidence, civil 195, criminal 6.

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Personnel, 1 justice, 2 special justices, 1 clerk, 2 assistant clerks, 1 senior clerk 3 probation officers, 2 court officers.

Total operating cost (1932) \$33,116; justice salary, \$4:215 specials: \$1,804 for 73

| Criminal entries | 4,778        |       | Civil writs                        | 19 | 162      |
|------------------|--------------|-------|------------------------------------|----|----------|
| bation officers  | 316          | 17.4% | Tort                               | 63 | 82       |
| Not arrested     | 4,462<br>106 |       | Removed Summary process All others |    | 72       |
| Cases in court   | 4,356<br>771 |       | Supplementary process Small claims |    | 59<br>79 |

|                |           | _  |          | _  |
|----------------|-----------|----|----------|----|
| Sentences      | In Effect | %  | Appealed | %  |
| Fine           | 1.559     | 90 | 157      | 10 |
| Imprisonment   | 423       | 83 | 86       | 17 |
| Ingonilo acces | 017       |    |          |    |

In 1932 the justice of this court also served on the appellate division in the northern district.

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### The Municipal Court of the BRIGHTON District of the City of Boston

Population 56,362, incidence, civil 71, criminal 21.
Personnel,—1 justice, 2 special justices, 1 clerk, 1 assistant clerk, 1 clerical assistant, 1 probation officer, 1 probation clerk, 1 court officer.
Total operating cost (1932) \$19,879; justice salary, \$3,372; specials: \$641 for 64

| Criminal entries<br>Drunks released by pro- | 2,597        | Civil writs                                     | 156 | 789                   |
|---|--------------|---|-----|-----------------------|
| bation officers                             | 546          | Tort  | 155 | 211                   |
| Not arrested                                | 2,051<br>49  | Removed   |     | 27<br>475             |
| Cases in court                              | 2,002<br>265 | All othersSupplementary process<br>Small claims |     | $\frac{3}{372}$ $435$ |

| Probation                                  |    | 65            | Small                | claim         |
|--|----|---------------|----------------------|---------------|
| Sentences Fine Imprisonment Juvenile cases | 40 | %<br>83<br>49 | Appealed<br>86<br>42 | %<br>17<br>51 |

### DISTRICT COURTS IN MIDDLESEX COUNTY

First District Court of Eastern Middlesex

Sits at MALDEN and for Wakefield, Melrose, Everett, Medford

Population 205,662; area 28.7, density 7,166, incidence, civil 37, criminal 38.

Personnel,—I justice, 3 special justices, 1 clerk, 2 assistant clerks, 1 principal clerk, 1 senior clerk, 3 junior clerks, 1 probation and court officer, 3 assistant probation officers, 1 junior clerk, 2 app. clerks.

Total operating cost (1932) \$57,441; justice salary, \$6,000; special justices: \$6,787 for 244 days \$\$10.72.

344 days at \$19.73.

| Criminal entries<br>Drunks released by pro-<br>bation officer | 5,364<br>544 <i>23.1</i> % | Civil writs             |              |
|---|----------------------------|-------------------------|--------------|
| bation officer  | 011 20.1 70                |                         | 4,510        |
| Not arrested  | 4,820<br>103               | Removed Summary process | 128<br>1,001 |
| Cases in court  |                            | All others              | 849<br>2,643 |

| Probation      | 2,0 | 23       | Small                 | claims         |
|----------------|-----|----------|-----------------------|----------------|
| Sentences Fine | 168 | 85<br>75 | Appealed<br>124<br>55 | 70<br>15<br>23 |

### Third District Court of Eastern Middlesex

Sits at CAMBRIDGE, and for Arlington, Belmont

Population 171,485, area 16, density 10,718, incidence, civil 33, criminal 24.

Personnel,—1 justice, 3 special justices, 1 clerk, 2 assistant clerks, 1 prin. clerk, 4 senior clerks, 3 junior clerks, 3 probation officers, 2 assistant probation officers, 2 court

officers, 3 senior clerks, 1 junior clerk.

Total operating cost (1932) \$69.611; justice salary, \$6.000; special justices: \$10.299 for

| 522 days at \$19.73.<br>Criminal entries  | 7,572        | Civil writs                        | 5,069              |
|---|--------------|------------------------------------|--------------------|
| Drunks released by pro-<br>bation officer | 1,545 46.8   | % Tort                             | 3.993              |
| Not arrested                              | 6,027<br>260 | Removed                            | 151<br>1,041<br>35 |
| Cases in court                            | 5,767<br>918 | Supplementary process Small claims | 660<br>960         |
| Sentences In Effe                         | ect %        | Appealed %                         |                    |

| Sentences    | In Effect | %  | Appealed | %  |
|--------------|-----------|----|----------|----|
| Fine         | 697       | 85 | 117      | 15 |
| Imprisonment | 344       | 67 | 164      | 33 |
| * 13         | 201       |    |          |    |

In 1932 the justice of this court presided in the appellate division in the northern district and as a member of the Administrative Committee of the district courts.

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1,510 128 1,001 45 849 2,643

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3,993 151 1,041 660 960

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### The District Court of SOMERVILLE

Population 103,908, area 3.9, density 26,643, incidence, civil 40, criminal 40.

Personnel,—1 justice, 3 special justices, 1 clerk, 1 assistant clerk, 2 senior clerks, 1 probation officer, 1 assistant probation officer, 1 court officer.

Total operating cost (1932) \$27,747; justice salary, \$4,600; special justices: \$2,042 for

| Criminal entries                                    | 2,091<br>66 | 5.9% | Contrac              | ritst           | 1,291 | 2,550                    |
|---|-------------|------|----------------------|-----------------|-------|--------------------------|
| Not arrested  | 2,025<br>82 |      | Summa                | moved           |       | 1,962<br>88<br>571<br>18 |
| Cases in court                                      | 1,943       |      | Supplen              | nentary process |       | 307<br>473               |
| Sentences In Effe<br>Fine 1,011<br>Imprisonment 133 | 8           | 7    | pealed<br>148<br>117 | %<br>13<br>47   |       |                          |

### Second District Court of Eastern Middlesex

Sits at WALTHAM, and for Watertown, Weston

Population 77,492, area 33.7, density 2,299, incidence, civil 33, criminal 42. Personnel,—1 justice, 2 special justices, 1 clerk, 1 assistant clerk, 1 senior clerk, 2 junior clerks, 3 probation officers, 2 court officers.

Total operating cost (1932) \$28,529; justice salary, \$4,100; specials: \$3,882 for 288

| days at \$13.48. Criminal entries  Drunks released by probation officer | ninal entries 1,611<br>lks released by pro- |                  | Civil writs              |               |  | 2,300<br>1.942                 |
|---|---|------------------|--------------------------|---------------|--|--------------------------------|
| Not arrested  | 1,310<br>35<br>1,275<br>362                 |                  | Summ<br>All ot<br>Supple | temoved       |  | 115<br>345<br>13<br>336<br>418 |
| Sentences In Effe<br>Fine 174<br>Imprisonment 70<br>Juvenile cases 1    | ect 8                                       | % A <sub>1</sub> | opealed<br>29<br>25      | %<br>15<br>27 |  | 410                            |

### Fourth District Court of Eastern Middlesex

Sits at WOBURN, and for Winchester, Burlington, Wilmington, Stoneham, Reading, and North Reading

Population 59,660, area 76.8, density 777, incidence, civil 47, criminal 31.

Personnel,—1 justice, 2 special justices, 1 clerk, 1 senior clerk, 1 junior clerk, 1 court and probation officer, 1 senior clerk, 1 junior clerk.

Total operating cost (1932) \$21,207; justice salary, \$3,700; specials: \$2,020 for 165

| days at \$12.17. Criminal entries Drunks released by probation officer | 1,879<br>221 | 32.2% | Contr        | writsact | 882<br>247 | 1,250              |
|--|--------------|-------|--------------|----------|------------|--------------------|
| Not arrested   | 1,658<br>63  |       | Summ         | demoved  |            | 1,129<br>29<br>113 |
| Cases in court   | 1,585<br>197 |       | Supple       | hers     |            | 189<br>464         |
| Sentences In Effe<br>Fine 387  |              | % Ap  | pealed<br>40 | 70       |            |                    |

Imprisonment . . 93 Juvenile cases . . . . . . . . . . . . 59

In 1932 the justice of this court also served on the appellate division in the northern district.

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### District Court of NEWTON

Population 65,276, area 17.9, density 3,647, incidence, civil 35, criminal 27. Personnel,—1 justice, 2 special justices, 1 clerk, 1 assistant clerk, 1 senior clerk, 2 junior clerks, 1 court and probation officer, 1 assistant probation officer, 1 senior clerk, 1

assistant court officer. Total operating cost (1932) \$30,266; justice salary, \$3,900; specials: \$4,320 for 337 days at \$12.82

| Criminal entries Drunks released by pro- | 2,423       |       | Civil writs | 1,848             |
|--|-------------|-------|-------------|-------------------|
| bation officer                           | 225         | 38.7% | Tort        | 1 570             |
| Not arrested                             | 2,198<br>57 |       | Removed     | 62                |
| Cases in court                           |             |       | All others  | 132<br>404<br>537 |

| I TODATION     |          | 040  | Sman     | Claim |
|----------------|----------|------|----------|-------|
| Sentences      | In Effec | et % | Appealed | %     |
| Fine           | 653      | 87   | 97       | 13    |
| Imprisonment   | 61       | 67   | 30       | 33    |
| Invanila casas | 80       |      |          |       |

### District Court of LOWELL

Sits at LOWELL, and for Tewksbury, Billerica, Dracut, Chelmsford, Dunstable Population 127,375, area 136.8, density 931, incidence, civil 61, criminal 35. Personnel,—1 justice, 3 special justices, 1 clerk, 1 assistant clerk, 1 prin. clerk, 2 senior clerks, 1 junior clerk, 1 probation officer, 2 assistant probation officers, 1 senior clerk, 2 court officers.

Total operating cost (1932) \$45,905; justice salary, \$5,200; specials: \$3,146 for 184

| Criminal entries<br>Drunks released by pro- | 3,610       |       | Civil writs                                   | 2,086            |
|---|-------------|-------|---|------------------|
| bation officer                              | 961         | 51.4% | Tort  | 1 700            |
| Not arrested                                | 2,649<br>96 |       | Removed                                       | 58<br>269        |
| Cases in court                              |             |       | All others Supplementary process Small claims | 17<br>195<br>416 |

| Frobation       |           | 991 | omai     | ciaim |
|-----------------|-----------|-----|----------|-------|
| Sentences       | In Effect | %   | Appealed | %     |
| Fine            | 283       | 81  | 40       | 13    |
| Imprisonment    | 262       | 84  | 49       | 16    |
| Inversile accor | 169       |     |          |       |

### First District Court of Southern Middlesex

Sits at FRAMINGHAM, and for Ashland, Holliston, Sherborn, Sudbury, Waylands Hopkinton

Population 35,096, area 138.2, density 623, incidence, civil 40, criminal 36.

Personnel,-1 justice, 2 special justices, 1 clerk, 1 senior clerk, 1 app. clerk, 1 pro-

bation officer. Total operating cost (1932) \$15,875; justice salary, \$2,900; specials: \$1,610 for 169

| 954 |       | Civil writs | 874               |
|-----|-------|-------------|-------------------|
| 24  | 11.7% | Tort        | <b>200</b>        |
| 930 |       | Removed     | 83<br>87          |
|     | 24    | 24 11.7%    | 24 11.7% Contract |

| Probation                                  |    | 104           | Small         | claims        |
|--|----|---------------|---------------|---------------|
| Sentences Fine Imprisonment Juvenile cases | 45 | %<br>87<br>85 | Appealed 24 8 | %<br>13<br>15 |

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### District Court of Central Middlesex

Sits at CONCORD, and for Acton, Bedford, Carlisle, Lincoln, Maynard, Stow, Lexington

Population 32,389, area 128.1, density 253, incidence, civil 57, criminal 32.

Personnel,—I justice, 2 special justices, 1 clerk, 1 senior clerk, 1 junior clerk, 1 probation officer, 1 court officer.

Total operating cost (1932) \$13,256; justice salary, \$2,900; specials: \$469 for 51 days at \$9.21. Criminal entries......
Drunks released by pro-993 Civil writs.....

| bation officer | 9          | Tort  | *0.5       |
|----------------|------------|---|------------|
| Not arrested   | 993<br>22  | Removed   | 20<br>30   |
| Cases in court | 971<br>187 | All othersSupplementary process<br>Small claims | 100<br>304 |

|                |      |        |    |          | _       |
|----------------|------|--------|----|----------|---------|
| Sentences      | In 1 | Effect | %  | Appealed | %<br>31 |
| Fine           |      | 149    | 69 | 66       | 31      |
| Imprisonment   |      | 79     | 65 | 41       | 35      |
| Juvenile cases |      | .34    |    |          |         |

### District Court of MARLBOROUGH

Population 24,056, area 32.7, density 766, incidence, civil 70, criminal 55.

Personnel,—1 justice, 2 special justices, 1 clerk, 1 junior clerk, 1 probation and court

| officer. Total operating cost (193        | 2) \$9,2 | 19; justic | \$2,400; specials: \$465 for 59 da | ys at \$7  | 7.89. |
|---|----------|------------|------------------------------------|------------|-------|
| Criminal entries                          | 432      |            | Civil writs                        |            | 343   |
| Drunks released by pro-<br>bation officer | 10       | 7.4%       | Contract                           | 220<br>104 | 004   |
|   | 422      |            | Removed                            |            | 324   |
| Not arrested                              | 12       |            | Summary process                    |            | 18    |
| Cases in court                            | 410      |            | All others Supplementary process   |            | 42    |

| Cases in court Probation |    | 410<br>139    | Suppl<br>Small | lementary process |
|--------------------------|----|---------------|----------------|-------------------|
| Sentences Fine           | 39 | %<br>74<br>86 | Appealed 18 6  | %<br>26<br>14     |

### First District Court of Northern Middlesex

Sits at AYER, and for Groton, Pepperell, Townsend, Ashby, Shirley, Westford, Littleton, Boxborough

Population 18,936, area 193.3, density 98, incidence, civil 101, criminal 27.

Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer.
Total operating cost (1932) \$8,179; justice salary, \$2,200 (paid \$223); specials: \$2,190 for 169 days at \$7.23.

The justice of this court was ill or a vacancy existed during the greater part of 1932.

|   | THO ME OF | a vacancy | existed during the greater pa               | I U OI LO | 344           |
|---|-----------|-----------|---|-----------|---------------|
| Criminal entries                          | 685       |           | Civil writs                                 |           | 186           |
| Drunks released by pro-<br>bation officer | 14        | 25%       | Contract                                    | 129<br>49 | 178           |
| Not arrested                              | 671<br>21 |           | Removed Summary process                     |           | 12 8          |
| Cases in court                            | 650<br>20 |           | All othersSupplementary processSmall claims |           | 0<br>31<br>43 |

| Sentences      | In | Effect | 07.      | Appealed | - 07 |
|----------------|----|--------|----------|----------|------|
| Fine           |    | 219    | 95<br>91 | 11<br>2  | 5    |
| Juvenile cases |    | 10     |          | -        |      |

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### District Court of NATICK

| Population 13,589, | area 14.9, density | 912, incidence, | civil 53, criminal 31 |  |  |
|--------------------|--------------------|-----------------|-----------------------|--|--|

| Personnel,—1 justice, 2 spec | ciai justices, i ( | merk, 1 probation  | omeer.       |         |         |
|------------------------------|--------------------|--------------------|--------------|---------|---------|
| Total operating cost (1932)  | \$6,631; justice   | \$1,900; specials: | \$225 for 36 | days at | \$6.25. |
| Criminal entries             | 467                | Civil writs        |              |         | 255     |
| Drunks released by pro-      |                    | Contract           |              | 152     |         |
| bation officer               |                    | Tort               |              |         |         |
|                              |                    |                    |              |         | 000     |

| bation officer | 0         | Tort   | 025       |
|----------------|-----------|--|-----------|
| Not arrested   | 467<br>16 | Removed                                      | 10<br>20  |
| Cases in court | 451<br>58 | All othersSupplementary process Small claims | 42<br>136 |

| Sentences      | In | Effect | %  | Appealed | %  |
|----------------|----|--------|----|----------|----|
| Fine           |    | 98     | 91 | 9        | 9  |
| Imprisonment   |    | 30     | 88 | 4        | 12 |
| Juvenile cases |    | 21     |    |          |    |

### DISTRICT COURTS IN NORFOLK COUNTY

### District Court of Eastern Norfolk

Sits at QUINCY, and for Randolph, Braintree, Cohasset, Weymouth, Holbrook, Milton, part of Scituate

Population 138,000, area 87.3, density 1,581, incidence, civil 38, criminal 29. Personnel.—I justice, 3 special justices, 1 clerk, 2 assistant clerks, 3 clerical assistants, 3 probation officers, 3 clerical assistants.

Total operating cost (1932) \$36,976; justice, \$5,300; specials: \$4,829 for 277 days at

| N-4                                       | 4,157 |       | Removed     |       | 2,999<br>121 |
|---|-------|-------|-------------|-------|--------------|
| Drunks released by pro-<br>bation officer |       | 32.3% | Contract    | 2,135 |              |
| \$17.43.<br>Criminal entries              | 4.617 |       | Civil writs |       | 3,618        |

|       |                       | 2.999  |
|-------|-----------------------|--|
| 4,157 | Removed               | 121  |
| 136   | Summary process       | 548  |
|       | All others            | 71   |
| 4,021 | Supplementary process | 431  |
| 1,097 | Small claims          | 1,546  |
|       | 136                   | 136 Summary process  All others  4,021 Supplementary process |

| Sentences    | In | Effect | %  | Appealed | %  |
|--------------|----|--------|----|----------|----|
| Fine         |    | 573    | 90 | 61       | 10 |
| Imprisonment |    | 110    | 71 | 45       | 29 |
| 7 11         |    | DOF    |    |          |    |

### District Court of Northern Norfolk

Sits at DEDHAM, and for Dover, Norwood, Westwood, Medfield, Needham, Wellesley-Population 59,827, area 84.2, density 711, incidence, civil 47, criminal 34. Personnel,—1 justice, 2 special justices, 1 clerk, 1 assistant clerk, 2 probation officers,

1 clerical assistant, 1 court officer.

Total operating cost (1932) \$19,375; justice, \$3,700; specials: \$1,764 for 144 days at

| Criminal entries | ,            | 43.3% | Civil writs                                   | 864<br>298 | 1,264             |
|------------------|--------------|-------|---|------------|-------------------|
| Not arrested     | 1,484<br>222 |       | RemovedSummary process                        |            | 1,162<br>49<br>96 |
| Cases in court   | 1,262<br>122 |       | All others Supplementary process Small claims |            | 212<br>490        |

| 1 Tobation     |    |        | 144 | Cincin   | Ciaini |
|----------------|----|--------|-----|----------|--------|
| Sentences      | In | Effect | %   | Appealed | %      |
| Fine           |    | 720    | 92  | 56       | 8      |
| Imprisonment   |    | 85     | 79  | 22       | 21     |
| Invenile cocce |    | 74     |     |          |        |

In 1932 the justice of this court also served on the appellate division in the southern district.

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### Municipal Court of RROOKLINE

Population 47,490, area 6.6, density 7,195, incidence, civil 25, criminal 22.

Personnel,—I justice, 2 special justices, 1 clerk, 1 assistant clerk, 1 clerical assistant, 1 probation officer, 1 assistant to probation officer, 1 clerical assistant, 1 court officer.

Total operating cost (1932) \$26,268; justice, \$2,886; specials: \$3,549 for 327 days at

Total operating cost (1932) \$26,268; justice, \$2,886; specials: \$3,549 for 327 days at \$10.85.

Criminal entries....... 2,099 Civil writs....... 1,892

Drunks released by pro-

Contract . . . . . . . . . . 1,351 5% bation officer . . . . . . . . Tort..... 1,720 2,082 Removed . . . . . . . . . . . . . 93 Not arrested . . . . . . . . . . 65 Summary process..... 149 All others.... 23 Cases in court . . . . . . 2,017 470 Supplementary process.... Probation.... Small claims.... 465

 Sentences
 In Effect
 %
 Appealed
 %

 Fine
 ...
 892
 94
 55
 6

 Imprisonment
 45
 76
 14
 24

 Juvenile cases
 91

In 1932 the justice of this court also served on the Administrative Committee of the district courts and presided in the appellate division in the southern district.

### District Court of Western Norfolk

Sits at FRANKLIN-WALPOLE, and for Bellingham, Foxborough, Medway, Millis-Norfolk, Wrentham, Plainville

Population 34,324, area 157.6, density 218, incidence, civil 76, criminal 27.

Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer, 1 junior typist, 1 clerical assistant and 1 court officer.

Total operating cost (1932) \$20,186; justice, \$2,900; specials: \$2,394 for 251 days at \$0.53

Criminal entries...... Drunks released by pro-Civil writs..... 1,231 279 bation officer..... 114 Tort..... 393 1,231 Removed . . . . . . . . . . . . . 25 42 Not arrested . . . . . . . . 69 Summary process..... All others..... 11 Cases in court . . . . . . . 1,162 Supplementary process.... 67 Small claims..... 84

In 1932 the justice of this court was called to sit in the Superior Court for 146 days.

### District Court of Southern Norfolk

Sits at STOUGHTON-CANTON, and for Avon, Sharon

Population 19,785, area 63.2, density 313, incidence, civil 65, criminal 15.

Personnel,—1 justice, 2 special justices, 1 clerk, 1 junior clerk, 1 probation officer, 1 court officer.

Total operating cost (1932) \$12,869; justice, \$1,502; specials: \$1,118 for 148 days at \$7.56.

 Sentences
 In Effect
 %
 Appealed
 %

 Fine
 427
 98
 8
 2

 Imprisonment
 27
 87
 4
 13

 Juvenile cases
 26

In 1932 the justice of this court also served on the appellate division in the southern district.

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### DISTRICT COURTS IN ESSEX COUNTY

District Court of Southern Essex

| Sits at        | LYNN, and   | for Swampscott, | Saugus, Marblehead, Nahant     |
|----------------|-------------|-----------------|--------------------------------|
| Population 137 | 688 area 20 | 6 density 4 652 | incidence civil 36 criminal 42 |

Personnel,-1 justice, 3 special justices, 1 clerk, 1 assistant clerk, 1 second assistant clerk, 3 probation officers, 3 senior clerks.

Total operating cost (1932) \$42,453; justice salary, \$5,300; specials: \$6,058 for 348

| Criminal entries  Drunks released by probation officer | ,     | 45%   | Civil writs     | 3,818 |
|--|-------|-------|-----------------|-------|
| _  |       | 10 70 |                 | 2.923 |
|  | 2,636 |       | Removed         | 202   |
| Not arrested   | -     |       | Summary process | 872   |
|  |       |       | All others      | 23    |

| Cases in court         2,636           Probation         598 |                         |               | Suppl<br>Small        | 281<br>553    |  |
|--|-------------------------|---------------|-----------------------|---------------|--|
| Sentences Fine   | In Effect<br>395<br>139 | %<br>71<br>69 | Appealed<br>110<br>60 | ~<br>29<br>31 |  |

### First District Court of Essex

Sits at SALEM, and for Beverly, Danvers, Hamilton, Middleton, Topsfield, Wenham, Manchester

Population 89,893, area 94, density 945, incidence, civil 50, criminal 24. Personnel,—1 justice, 2 special justices, 1 clerk, 1 assistant clerk, 2 probation officers, 2 senior clerks, 2 junior clerks.

Total operating cost (1932) \$32,431; justice salary, \$4,300; specials: \$2,043 for 170 days at \$14.14. Civil writs..... Criminal entries..... 3,643 Contract

| bation officer | 555 61.8%    | Tort 441                                     | 1.502            |
|----------------|--------------|--|------------------|
| Not arrested   | 3,088<br>161 | Removed                                      | 205<br>242       |
| Cases in court |              | All othersSupplementary process Small claims | 50<br>173<br>430 |

| # 100mmon      |           |    | 10222000 | Cathana |
|----------------|-----------|----|----------|---------|
| Sentences      | In Effect | %  | Appealed | %       |
| Fine           | 824       | 80 | 205      | 20      |
| Imprisonment   | 87        | 43 | 114      | 57      |
| Invenile esses | 08        |    |          |         |

Juvenile cases . . . . . . . . . . 175

Juvenile cases . . . . . .

### District Court of LAWRENCE

Sits at LAWRENCE-METHUEN, and for Andover, North Andover

Population 123,067, area 86.8, density 1,418, incidence, civil 63, criminal 23.

Personnel,—1 justice, 3 special justices, 1 clerk, 1 assistant clerk, 2 probation officers, 2 senior clerks, 1 assistant court officer.

Total operating cost (1932) \$32,800; justice salary, \$5,200; specials: \$3,729 for 218 days at \$17.11.

| Criminal entries                          | 3,293       | Civil writs | 1,947           |
|---|-------------|-------------|-----------------|
| Drunks released by pro-<br>bation officer | 1,260 73.1% | Contract    |                 |
| Not arrested                              | 2,033<br>42 | Removed     | 85<br>190<br>28 |
| Cases in court                            |             | All others  | 103<br>171      |

| Cases in court<br>Probation |                         | 91<br>17 | Suppl       | ementary process |
|-----------------------------|-------------------------|----------|-------------|------------------|
| Sentences<br>Fine           | In Effect<br>316<br>307 | %<br>76  | Appealed 98 |                  |

Juvenile cases . . . . .

Juvenile cases.....

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### District Court of Northern Essex

Sits at HAVERHILL, and for Groveland, Georgetown, Boxford and (concurrent) West Newbury

Population 53,700, area 92.8, density 594, incidence, civil 49, criminal 51.

Personnel,—I justice, 2 special justices, 1 clerk, 1 assistant clerk, 2 probation officers, 1 court officer, 1 senior clerk.

Total operating cost (1932) \$24,234; justice salary, \$3,700; specials: \$1,326 for 109

| days at \$12.17. Criminal entries Drunks released b bation officer | y pro-           | 1,065<br>357     | 57% | Contr        | writsact         | 657<br>279 | 1,1 |
|--|------------------|------------------|-----|--------------|------------------|------------|-----|
| Not arrested   |                  | $\frac{708}{23}$ |     | Sumn         | Removed          |            | 1   |
| Cases in court Probation   |                  | 685              |     | Suppl        | ementary process |            |     |
| Sentences<br>Fine  | In Effect<br>134 | 75               | Ap  | pealed<br>49 | %<br>27          |            |     |
| Imprisonment   | 76               | 6                | 5   | 41           | 35               |            |     |

### District Court of Eastern Essex

### Sits at GLOUCESTER, and for Rockport, Essex

Population 29,299, area 47.4, density 620, incidence, civil 49, criminal 30.

Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer, 1 junior clerk.

| Criminal entries<br>Drunks released by pro-<br>bation officer | 694            | 44.4%           | Contr              | writs              | 355<br>95 | 548             |
|---|----------------|-----------------|--------------------|--------------------|-----------|-----------------|
| Not arrested  | 551            |                 | Sumn               | Removed            |           | 450<br>34<br>74 |
| Cases in court  |                |                 | Suppl              | hers               |           | 24<br>27<br>101 |
| Sentences In Eff<br>Fine                                      | fect<br>8<br>2 | % A<br>82<br>85 | ppealed<br>17<br>7 | -<br>%<br>18<br>15 |           |                 |

### District Court of NEWBURYPORT

Sits at NEWBURYPORT, and for Newbury, Rowley and (concurrent) Salisbury, West Newbury

Population 21,713, area 80.9, density 268, incidence, civil 21, criminal 15.

Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation and court officer, 1 junior clerk.

Total operating cost (1932) \$9,258; justice salary, \$2,284; specials: \$507 for 67 days at \$7.57.

| at \$7.57. Criminal entries Drunks released by pro- bation officer | 1,022<br>42 | 32.8% | Civil writs                        | 233<br>56 |
|--|-------------|-------|------------------------------------|-----------|
| Not arrested   | 980<br>55   |       | Removed                            |           |
| Cases in court   | 925<br>48   |       | Supplementary process Small claims |           |

| Sentences    | Effect | %  | Appealed | %  |
|--------------|--------|----|----------|----|
| Fine         | 420    | 94 | 26       | 6  |
| Imprisonment | 26     | 70 | 11       | 30 |

In 1932 the justice of this court also served on the appellate division in the northern district.

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### District Court of PEABODY

Sits at PEABODY and for Lynnfield

Population 22,939, area 26.6, density 862, incidence, civil 22, criminal 15. Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer, 1 senior clerk, 1

junior clerk. Total operating cost (1932) \$15,604; justice salary, \$2,400; specials: \$1,073 for 136

| days at \$7.89. Criminal entries Drunks released by bation officer | pro-      | 40.7 | Civil writs                                     | 500             |
|--|-----------|------|---|-----------------|
| Not arrested   | 721       |      | Removed   | 408<br>28<br>73 |
| Cases in court Probation   |           |      | All othersSupplementary process<br>Small claims | 38<br>240       |
| Contonana  | In Effort | C7.  | Appealed 67                                     |                 |

| Sentences      | In Effect | %  | Appealed | %  |
|----------------|-----------|----|----------|----|
| Fine           |           | 90 | 12       | 10 |
| Imprisonment   | 167       | 94 | 9        | 6  |
| Juvenile cases | 59        |    |          |    |

Second District Court of Essex

Sits at AMESBURY, and for Merrimac and (concurrent) Salisbury

Population 16,485, area 37.1, density 443, incidence, civil 102, criminal 15. Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer, 1 junior clerk. Total operating cost (1932) \$9,454; justice salary, \$2,400; specials: \$260 for 33 days

| Criminal entries<br>Drunks released by pro- | 1,056 |       | Civil writs                      | 110 | 161                                    |
|---|-------|-------|----------------------------------|-----|--|
| bation officer                              | 31    | 24.4% | Tort                             | 36  | 146                                    |
|   | 1,025 |       | Removed                          |     | 00                                     |
| Not arrested                                | -     |       | Summary process                  |     | 13                                     |
| Cases in court                              | 1,025 |       | All others Supplementary process |     | $\begin{array}{c} 2 \\ 14 \end{array}$ |

| Cases in court Probation |                  | $025 \\ 125$ | Suppl          | lementary process |
|--------------------------|------------------|--------------|----------------|-------------------|
| Sentences<br>Fine        | In Effect<br>383 | %<br>87      | Appealed<br>57 | %<br>13           |
| Imprisonment             | -                | 38           | 44             | 62                |

| Imprisonment        | 27         | 38        | 44        | 62         |              |
|---------------------|------------|-----------|-----------|------------|--------------|
| Juvenile cases      | 37         |           |           |            |              |
| In 1932 the instice | of this co | nurt also | served on | he annella | e division i |

te division in the northern district.

### Third District Court of Essex Sits at IPSWICH

Population 5,599, area 33.2, density 168, incidence, civil 124, criminal 41.
Personnel,—1 justice, 2 special justices, 1 clerk.
Total operating cost (1932) \$5,154; justice salary, \$1,400; specials: \$802 for 174 days

| Criminal entries  Drunks released by probation officer | 134       | Civil writsContractTort               | 33<br>9 |
|--|-----------|---------------------------------------|---------|
| Not arrested   | 134<br>4  | Removed Summary process All others    | 4       |
| Cases in court   | 130<br>23 | Supplementary process<br>Small claims | 1<br>5  |

| Sentences      | In Effect | %   | Appealed | %  |
|----------------|-----------|-----|----------|----|
| Fine           | 11        | 100 | 0        | 0  |
| Imprisonment   | 9         | 82  | 2        | 18 |
| Invenile coses | 0         |     |          |    |

In 1932 the justice of this court was called to sit in the Superior Court for 137 days.

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### DISTRICT COURTS IN WORCESTER COUNTY

Central District Court of WORCESTER

Sits at WORCESTER, and for Millbury, Sutton, Auburn, Leicester, Paxton, West Boylston, Holden, Shrewsbury, Rutland, Barre, Princeton, Oakham

Population 235,745, area 343.9, density 685, incidence, civil 38, criminal 33. Personnel,—1 justice, 3 special justices, 1 clerk, 1 assistant clerk, 5 probation officers, 1 court officer, 7 clerical assistants.

Total operating cost (1932) \$62,699; justice salary, \$6,000; specials: \$5,625 for 285 days at \$19.74.

Criminal entries. 7,203 Civil writs..... 6,116 Drunks released by pro-bation officer . . . . . . . . 2,049 53.4% 4,063 Removed . . . . . . . . . . . . 5.154 22 Not arrested . . . . . . . . . . Summary process . . . . . . . . 2,009 All others..... 44 Cases in court . . . . . . . . . 5,154 Supplementary process.... 471 Small claims..... 864 In Effect

Sentences Appealed 92 1,237 Fine . . . . . . . . . . . . . 106 Imprisonment . . 83 57 17 Juvenile cases . . . . . . . . . . . 439

In 1932 the justice of this court also served on the appellate division in the western

### District Court of FITCHBURG

Sits at FITCHBURG, and for Ashburnham, Lunenburg

Population 44,694, area 93.2, density 479, incidence, civil 82, criminal 33. I ersonnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer, 2 clerical assistants. Total operating cost (1932) \$13,860; justice salary, \$3,300; specials: \$669 for 61 days

at \$10.85. Criminal entries.... Drunks released by pro-1,337 Civil writs..... Contract..... 103 15.8% bation officer . . . . . . . . 429 Removed . . . . . . . . . . . . . 1.234 11 Not arrested . . . . . . . . . 43 Summary process..... 104 All others.... 9 Cases in court..... 1,191 Supplementary process.... 55

259 Small claims..... % 6 In Effect Appealed 217 Fine . . . . . . . . . . . . . 14 Imprisonment . . 42 76 13 24 

### First District Court of Southern Worcester

Sits at SOUTHBRIDGE-WEBSTER, and for Sturbridge, Charlton, Dudley, Oxford

Population 39,390, area 161, density 245, incidence, civil 135, criminal 22. Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer, 1 clerical assistant. Total operating cost (1932) \$10,805; justice salary, \$3,100; specials: \$306 for 30 days at \$10.19. 1,730 Civil writs..... 291

Contract..... 178 bation officer . . . . . . . . 90 28.3% Tort..... 246 1,640 13 Not arrested . . . . . . . . . . 42 Summary process..... All others..... 3 Cases in court . . . . . . . . . 1,640 Supplementary process.... 37 25 Small claims.....

|                | <br>   |    |          |    |
|----------------|--------|----|----------|----|
| Sentences      | Effect | %  | Appealed | %  |
| Fine           | 449    | 94 | 27       | 6  |
| Imprisonment   | 63     | 79 | 16       | 21 |
| Juvenile cases | AA     |    |          |    |

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### First District Court of Northern Worcester

Sits at GARDNER-ATHOL, and for Petersham, Phillipston, Royalston, Templeton, Hubbardston, Dana, Westminster

Population 39,436, area 284.3, density 138, incidence, civil 100, criminal 37. Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer, 1 clerical assistant. Total operating cost (1932) \$12,974; justice salary, \$3,000; specials: \$749 for 76 days

| at \$9.86. Criminal entries Drunks released by pro- | 1,060 |       | Civil writs                        | 258 | 3  |
|---|-------|-------|------------------------------------|-----|----|
| bation officer                                      | 93    | 22.3% | Tort                               | 86  | 0  |
| _   | 967   |       | Removed                            |     | 34 |
| Not arrested  | 52    |       | Summary process All others         |     | 4  |
| Cases in court                                      | 915   |       | Supplementary process              |     | 4  |
| Probation   | 188   |       | Supplementary process Small claims |     | 7  |

| Sentences        | In | Effect | %  | Appealed | %  |
|------------------|----|--------|----|----------|----|
| Fine             |    | 276    | 86 | 45       | 14 |
| Imprisonment     |    | 52     | 73 | 19       | 27 |
| Torrespile conse |    | 0.5    |    |          |    |

Second District Court of Southern Worcester

Sits at BLACKSTONE-UXBRIDGE, and for Douglas, Northbridge, Millville

Population 24,978, area 99.4, density 251, incidence, civil 172, criminal 53. Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer, 1 clerical assistant. Total operating cost (1932) \$13,516; justice salary, \$2,500; specials: \$246 for 30 days

| Criminal entries                          | 477 |     | Civil writs           | 0.8 |
|---|-----|-----|-----------------------|-----|
| Drunks released by pro-<br>bation officer | 0   | 001 | Contract              | 97  |
| bation omeer                              | 2   | 2%  | Tort                  | 18  |
|   | 475 |     | Removed               |     |
| Not arrested                              | 14  |     | Summary process       |     |
|   | 404 |     | All others            |     |
| Cases in court                            | 461 |     | Supplementary process |     |
| Probation                                 | 43  |     | Small claims          |     |

|                |           | -  |          |    |
|----------------|-----------|----|----------|----|
| Sentences      | In Effect | %  | Appealed | %  |
| Fine           | 199       | 96 | 8        | 4  |
| Imprisonment   | 26        | 70 | 11       | 30 |
| Invenile caree | 6         |    |          |    |

### Second District Court of Eastern Worcester

Sits at CLINTON, and for Berlin, Bolton, Boylston, Harvard, Lancaster, Sterling Population 21,139, area 138.7, density 152, incidence, civil 177, criminal 94. Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer, 1 court officer. Total operation cost (1932) \$9,218; justice salary, \$2,400; specials: \$1,143 for 151 days

| at \$7.57. Criminal entries Drunks released by pro- | 226     | Civil writs           | 99 | 180 |
|---|---------|-----------------------|----|-----|
| bation officer                                      | 4 11.4% | Tort                  | 60 | 159 |
| **  | 222     | Removed               |    | 7   |
| Not arrested  | _       | Summary process       |    | 18  |
| Cases in court                                      | 222     | Supplementary process |    | 18  |
| Probation   | 28      | Small claims          |    | 68  |

| Sentences    | In Effect | 0% | Appealed | 0% |
|--------------|-----------|----|----------|----|
| Fine         | 64        | 87 | 9        | 13 |
| Imprisonment | 19        | 86 | 3        | 14 |

In 1932 the justice of this court was called to sit in the Superior Court for 172 days.

### District Court of LEOMINSTER

Population 21,810, area 28.8, density 757, incidence, civil 78, criminal 46.

Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer, 1 court officer, 1 clerical assistant.

Total operating cost (1932) \$8,786; justice salary, \$2,400; specials: \$284 for 36 days at

| S7.89.<br>Criminal entries                | 476    | Civil writs | 279<br>186 |
|---|--------|-------------|------------|
| Drunks released by pro-<br>bation officer | 5 2.69 | Contract    | 38 224     |
| Not arrested                              | 471    | Removed     | 8<br>53    |
| Cases in court                            | 471    | All others  | 27<br>52   |
| Sentences In Effec                        | t 0%   | Annealed %  |            |

36 97 37 Imprisonment . . Juvenile cases . . . . . . . . . . . . . . . . . 14

In 1932 the justice of this court also served on the appellate division in the western district.

### District Court of Western Worcester

Sits at EAST BROOKFIELD, and for Brookfield, North Brookfield, West Brookfield, Spencer, Warren, Hardwick, New Braintree

Population 19,450, area 188.4, density 109, incidence, civil 166, criminal 37. Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer.

Total operating cost (1932) \$7,604; justice salary, \$2,300; specials: \$1,143 for 151 days

| Drunks released by pro-<br>bation officer | 1         | 0.9% | Contract                           | 83<br>18 | 107      |
|---|-----------|------|------------------------------------|----------|----------|
| Not arrested                              | 526       |      | Removed Summary process All others |          | 6 14     |
| Cases in court                            | 526<br>88 |      | Supplementary process Small claims |          | 17<br>46 |

In Effect Appealed Sentences % 13 102 15 18 82 4 18 Imprisonment . . Juvenile cases . . . . . . . .18

In 1932 the justice of this court was called to sit in the Superior Court for 107 days.

### Third District Court of Southern Worcester

### Sits at MILFORD, and for Mendon, Upton, Hopedale

Population 20,847, area 59.2, density 352, incidence, civil 89, criminal 68. Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer, 1 clerical assistant. Total operating cost (1932) \$6,949; justice salary, \$2,300; specials: \$280 for 37 days at

| Criminal entries Drunks released by probation officer | 303<br>17 | 24.2% |                                 | 234<br>70<br>28  |
|---|-----------|-------|---------------------------------|------------------|
| Not arrested  | 286<br>12 |       | Removed                         | - 198<br>1<br>33 |
| Cases in court  | 274<br>48 |       | All othersSupplementary process | 39<br>196        |

| Sentences      | In Effect | %  | Appealed | %  |
|----------------|-----------|----|----------|----|
| Fine           |           | 93 | 4        | 7  |
| Imprisonment   | 7         | 77 | 2        | 23 |
| Juvenile cases | 13        |    |          |    |

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### First District Court of Eastern Worcester

| Sits at | WESTBOROUGH | and | GRAFTON, | and for | Southborough, | Northborough |
|---------|-------------|-----|----------|---------|---------------|--------------|

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|---|--|
| Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer, 1 clerical assistant. |  |
| Total operating cost (1932) \$7,504; justice salary, \$2,100; specials: \$186 for 27 days at  |  |
| 86.00   |  |

| \$6.90. Criminal entries Drunks released by pro- bation officer | 626 | 10.6%   | Civil writs<br>Contract<br>Tort | 72<br>55 | 142 |
|---|-----|---------|---------------------------------|----------|-----|
| bation officer  | 4   | 10.0 70 | TOT                             | 00       | 127 |
|   | 619 |         | · Removed                       |          | 8   |
| Not arrested  | -   |         | Summary process                 |          | 10  |
| _   |     |         | All others                      |          | ð   |
| Cases in court  | 619 |         | Supplementary process           |          | 25  |
| Probation   | 16  |         | Small claims                    |          | 118 |

| Sentences    | In | Effect | %  | Appealed | %  |
|--------------|----|--------|----|----------|----|
| Fine         |    | 53     | 93 | 4        | 7  |
| Imprisonment |    | 7      | 77 | 2        | 23 |

### District Court of WINCHENDON

Population 6,202, area 42.5, density 146, incidence, civil 163, criminal 53.

Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer.

Total operating cost (1932) \$3,877; justice salary, \$1,400; specials: \$138 for 30 days at \$4.60. Criminal entries Civil writs 38

| Drunks released by pro-<br>bation officer | 4 10.8%   | Contract                           | 9              |
|---|-----------|------------------------------------|----------------|
| Not arrested                              | 114<br>3  | Removed                            | - 36<br>1<br>1 |
| Cases in court                            | 111<br>45 | Supplementary process Small claims | 1 3            |

|                |           |     |          | _  |
|----------------|-----------|-----|----------|----|
| Sentences      | In Effect | %   | Appealed | %  |
| Fine           | 11        | 73  | 4        | 27 |
| Imprisonment   | 9         | 100 | 0        | 0  |
| Tuvonilo gagas | 3         |     |          |    |

### DISTRICT COURTS IN BRISTOL COUNTY

### Second District Court in BRISTOL

Sits at FALL RIVER, and for Somerset, Swansea and (concurrent) Freetown, Westport

Population 130,677, area 150.7, density 87, incidence, civil 56, criminal 35. Personnel,—1 justice, 3 special justices, 1 clerk, 1 assistant clerk, 2 probation officers,

1 court officer. Total operating cost (1932) \$35,017, justice, \$5,400; specials: \$2,344 for 132 days at

| N   | 2,831 |       | Removed     |     | 104   |
|---|-------|-------|-------------|-----|-------|
| Drunks released by pro-<br>bation officer | 841   | 45.6% | Contract    |     | 1977  |
| \$17.76.<br>Criminal entries              | 3,672 |       | Civil writs | 850 | 2,317 |

|                |       |                       | 1011 |
|----------------|-------|-----------------------|------|
|                | 2,831 | Removed               | 104  |
| Not arrested   | 88    | Summary process       | 770  |
| -              |       | All others            | 170  |
| Cases in court | 3,743 | Supplementary process | 129  |
| Probation      | 290   | Small claims          | 479  |

| Sentences      | In | Effect | %  | Appealed | %  |
|----------------|----|--------|----|----------|----|
| Fine           |    | 603    | 89 | 71       | 11 |
| Imprisonment   |    | 308    | 85 | 53       | 15 |
| Juvenile cases |    | .315   |    |          |    |

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### Third District Court of Bristol

Sits at NEW BEDFORD, and for Fairhaven, Acushnet, Dartmouth and (concurrent) Freetown, Westport

Population 142,482, area 197.7, density 72, incidence, civil 80.7, criminal 42.

Personnel,-1 justice, 3 special justices, 1 clerk, 2 assistant clerks, 2 probation officers,

et (1032) \$37 \$43 : instine \$5 700 : speciale : \$3 000 for 160 des

| \$18.75.                                    | 02) \$01 | ,040, Just | ice, \$5,700; specials: \$5,000 for | 100 a | ays at |
|---|----------|------------|-------------------------------------|-------|--------|
| Criminal entries<br>Drunks released by pro- | 3,337    |            | Civil writs                         | 969   | 1,764  |
| bation officer                              | 546      | 45.1%      | Tort                                | 432   | 1,401  |
|   | 2,791    |            | Removed                             |       | 65     |
| Not arrested                                | 99       |            | Summary process                     |       | 280    |
| -   |          |            | All others                          |       | 83     |
| Cases in court                              | 2,692    |            | Supplementary process               |       | 118    |

| Probation      | <br>                     | 232 |               | Small                  | claims        |
|----------------|--------------------------|-----|---------------|------------------------|---------------|
| Sentences Fine | <br>Effect<br>578<br>272 |     | %<br>76<br>61 | Appealed<br>177<br>171 | %<br>24<br>39 |
| Juvenile cases | <br>.221                 |     |               |                        |               |

### First District Court of Bristol

Sits at TAUNTON, and for Rehoboth, Berkeley, Dighton, Seekonk, Easton, Raynham Population 56,428, area 199.9, density 282, incidence, civil 78,6, criminal 34. Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer, 1 court officer. Total operating cost (1932) \$16,201; justice, \$3,600; specials: \$769 for 65 days at

| \$11.84. Criminal entries  Drunks released by probation officer | 1,657<br>220 | 47.9% | Civil writsContractTort                       | 498<br>112 | 716<br>610      |
|---|--------------|-------|---|------------|-----------------|
| Not arrested  | 1,437<br>25  |       | Removed                                       |            | 46<br>63        |
| Cases in court  | 1,412<br>271 |       | All others Supplementary process Small claims |            | 43<br>53<br>217 |

| Cases in court 1,412 Probation |    | All othersSupplementary process |                |               |  |
|--------------------------------|----|---------------------------------|----------------|---------------|--|
| Sentences Fine                 | 46 | %<br>86<br>62                   | Appealed 54 28 | %<br>14<br>38 |  |

### Fourth District Court of Bristol

Sits at ATTLEBORO, and for North Attleboro, Mansfield, Norton

Population 41,067, area 94.7, density, 43.4, incidence, civil 130, criminal 39. Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer, 1 court officer. Total operating cost (1932) \$17,691; justice, \$3,100; specials: \$734 for 72 days at

| \$10.20. Criminal entries Drunks released by probation officer | 1,048 | 21.2% | Civil writsContractTort          | 225<br>50 | 316             |
|--|-------|-------|----------------------------------|-----------|-----------------|
| Not arrested   | 1,013 |       | Removed                          | _         | 275<br>32<br>38 |
| Cases in court   | 1,013 |       | All others Supplementary process |           | 33<br>183       |

| Trobustom                   |           | 04 | Omita       | CIGIL |
|-----------------------------|-----------|----|-------------|-------|
| Sentences<br>Fine           | In Effect | %  | Appealed 21 | %     |
| Imprisonment Juvenile cases | 36        | 72 | 14          | 28    |

In 1932 the justice of this court also served on the appellate division in the southern district.

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### DISTRICT COURTS IN PLYMOUTH COUNTY

### District Court of BROCKTON

| Sits at BROCKTON   | and for Bridgewater, East Bridgewater, West Bridgewater, Halifa: | X |
|--------------------|--|---|
| Population 80.377. | area 97.6, density 823, incidence, civil 51, criminal 28,        |   |

Personnel,—1 justice, 2 special justices, 1 clerk, 1 assistant clerk, 1 senior clerk, 1 junior clerk, 2 probation officers, 1 junior clerk, 1 court officer.

Total operating cost (1932) \$26,187; justice, \$4,200; specials: \$1,954 for 141 days at

Criminal entries..... Drunks released by pro-1,566 2.865 Civil writs..... 783 Contract.....

bation officer..... 436 40.5% Tort..... 366 1,149 2,429 Removed . . . . . . . . . . 75 Not arrested . . . . . . . . . . . . 77 Summary process..... 153 All others..... 264 2,352 Supplementary process.... Cases in court . . . . . . . . . 130 Probation . . . . . . Small claims..... 340

Appealed Sentences In Effect 18 322 82 68 Imprisonment . . 144 82 30 18 Juvenile cases . . . . . . . . 180

### Second District Court of Plymouth

Sits at ABINGTON-HINGHAM, and for Whitman, Rockland, Hull, Hanover, Scituate, Norwell, Hanson

Population 39,367, area 120.2, density 328, incidence, civil 65, criminal 25.

Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer, 1 court officer, 2 senior clerks.

Total operating cost (1932) \$14,205; justice, \$3,200; specials: \$441 for 35 days at \$12.54. Criminal entries...... Drunks released by pro-Civil writs..... 1.542 3% bation officer..... Tort..... 12 115 491 1,530 Removed . . . . . . . . . . . . . 30 Not arrested . . . . . . . . 26 Summary process..... 61

All others..... 46 Supplementary process.... Cases in court . . . . . . . . . 1,504 140 Probation.... Small claims..... 320 342

| Sentences      | In | Effect | %  | Appealed | %  |
|----------------|----|--------|----|----------|----|
| Fine           |    | 370    | 83 | 73       | 17 |
| Imprisonment   |    | 49     | 57 | 36       | 43 |
| Juvenile cases |    | 33     |    |          |    |

### Third District Court of Plymouth

Sits at PLYMOUTH, and for Kingston, Plympton, Pembroke, Duxbury, Marshfield, Halifax with Brockton

Population 21,038, area 205.1, density 103, incidence, civil 86, criminal 28. Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer, 1 senior clerk. Total operating cost (1932) \$7,675; justice, \$2,500; specials: \$309 for 37 days at \$8.26.

Criminal entries . . . . . . . 729 243 Drunks released by pro-Contract..... bation officer..... 55 41.9% Tort.....

188 674 Removed . . . . . . . . . . . . . Not arrested . . . . . . . . 25 Summary process . . . . . . . . 17 30 All others..... Supplementary process. . . . Cases in court . . . . . . . . . 657 28 Small claims..... 106 119

| Sentences      | In Effect | %  | Appealed | %  |
|----------------|-----------|----|----------|----|
| Fine           | 109       | 91 | 10       | 9  |
| Imprisonment   | 25        | 67 | 12       | 33 |
| Juvenile cases | 16        |    |          |    |

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### Fourth District Court of Plymouth

Sits at MIDDLEBOROUGH and WAREHAM, and for Lakeville, Marion, Mattapoisett, Rochester, Carver

Population 21,529, area 240.1, density 89, incidence, civil 107, criminal 17.

Personnel,—1 justice, 2 special justices, 1 clerk and probation officer, 1 court officer, 1 senior clerk, 1 app. clerk.

Total operating cost (1932) \$13,305; justice, \$2,500; specials: \$580 for 70 days at \$8.22. Criminal entries..... Drunks released by pro-Civil writs..... 1,123 Contract..... bation officer . . . . . . . 53 21.5% Tort..... 27 182 1,070 11 Not arrested . . . . . . . . . 30 Summary process.....

16 All others..... 9 Cases in court . . . . . . 1,040 Supplementary process.... 25 80 Small claims..... 219 In Effect Appealed

426 81 97 19 Imprisonment . . 57 17 23 Juvenile cases . . . . . . . . . 43

In 1932 the justice of this court also served on the appellate division in the southern district.

### DISTRICT COURTS IN BARNSTABLE COUNTY

### First District Court of Barnstable

Sits at BARNSTABLE-FALMOUTH, and for Bourne, Yarmouth, Sandwich, Mashpee Population 18,579, area 236.3, density 74, incidence, civil 45, criminal 18.

Personnel,—1 justice, 2 special justices, 1 clerk, 1 court and probation officer, 1 clerical

Total operating cost (1932) \$10,596; justice, \$2,200; specials: \$253 for 35 days at \$7.24. Criminal entries..... Civil writs..... 1,015 Drunks released by pro-Contract.....

29 17.3% bation officer . . . . . . . . . 67 Tort..... 391 986 Removed . . . . . . . . . . . . . . . . 25 Not arrested . . . . . . . . . . Summary process..... 51 All others..... 1 935 51 Cases in court . . . . . . . . . Supplementary process....

Small claims.....

% Sentences In Effect Appealed 94 23 Imprisonment . . 92 4 8 Juvenile cases . . . . . . . . . 19

50

### Second District Court of Barnstable

Sits at HARWICH-PROVINCETOWN, and for Truro, Wellfleet, Eastham, Orleans, Brewster, Chatham, Dennis

Population 13,726, area 157.8, density 87, incidence, civil 66, criminal 27.

Personnel,—1 justice, 2 special justices, 1 clerk, 1 court and probation officer.

Total operating cost (1932) \$8,991; justice, \$1,900; specials: \$200 for 32 days at \$6.25. Civil writs..... 501 

bation officer..... 1 1.2% 188 500 Removed..... 11 Not arrested . . . . . . . . . 15 Summary process..... 14 All others.... 4 Cases in court..... 485 Supplementary process.... 29 35 Small claims..... 217

Sentences In Effect % Appealed 92 14Imprisonment . . 8 92 Juvenile cases . . . . . . . . . 43

Imprisonment . .

Juvenile cases . . . . . . . . . . . 71

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### DISTRICT COURTS IN HAMPDEN COUNTY

### District Court of SPRINGFIELD

Sits at SPRINGFIELD, and for West Springfield, Agawam, Longmeadow, East Longmeadow, Hampden, Ludlow

Population 191,003, area 140.7, density 1,358, incidence, civil 48, criminal 26. Personnel,—1 justice, 3 special justices, 1 clerk, 1 assistant clerk, 5 clerical assistants, 5 probation officers, 5 clerical assistants.

Total operating cost (1932) \$58,197; justice, \$6,000; specials: \$5,784 for 293 days at

| Criminal entries                          | 7,284        |            | vil writs                                | 3,929               |
|---|--------------|------------|--|---------------------|
| Drunks released by pro-<br>bation officer | 1,110        |            | ontractort                               | 0.000               |
| Not arrested                              | 6,174<br>78  | Su         | Removed                                  | 3,330<br>194<br>565 |
| Cases in court                            | 6,096<br>718 | Su         | l others pplementary process nall claims | 34<br>421<br>950    |
| Sentences In Effe<br>Fine 3,152           |              | Appeale 42 | d %                                      |                     |

Juvenile cases.... ..361 In this court the "court officers" are supplied by the police department, so that there is no county expense.

28

6

### District Court of HOLYOKE

Population 56,537, area 21.2, density 2,667, incidence, civil 84, criminal 55.

94

Personnel,—1 justice, 2 special justices, 1 clerk, 1 assistant clerk, 2 probation officers, 2 clerical assistants.

Total operating cost (1932) \$19,463; justice, \$3,333; specials: \$1,892 for 155 days at

| Criminal entries<br>Drunks released b<br>bation officer | y pro-                  | 1,023<br>26       | 4.8% | Contr            | writs                 |      | 382<br>168 |
|---|-------------------------|-------------------|------|------------------|-----------------------|------|------------|
| Not arrested  |                         | 997<br>10         |      | Summ             | emoved<br>ary process |      |            |
| Cases in court<br>Probation                             |                         | $\frac{987}{276}$ |      | Supple           | ementary proclaims    | cess |            |
| Sentences<br>Fine                                       | In Effect<br>377<br>118 | 90                | 7    | pealed<br>7<br>6 | %<br>3<br>5           |      |            |

### District Court of CHICOPEE

Population 43,930, area 22.9, density 1,919, incidence, civil 96, criminal 69.

Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer.

Total operating cost (1932) \$11,208; justice, \$3,200; specials: \$326 for 32 days at

| \$10.19.<br>Criminal entries<br>Drunks released by pation officer | pro-   | 629<br>5  | 2.1% | Contr | writs             | . 234 | 445<br>320 |
|---|--------|-----------|------|-------|-------------------|-------|------------|
| Not arrested  |        | 624<br>9  |      | Sumn  | Removed           |       | 22<br>119  |
| Cases in court  |        | 615<br>55 |      | Suppl | lementary process |       | 37<br>45   |
| Sentences In  | Effect | 9         |      | ealed | 70                |       |            |

| Sentences      | In Effect | %  | Appealed | % |
|----------------|-----------|----|----------|---|
| Fine           | 241       | 93 | 16       | 7 |
| Imprisonment   | 54        | 94 | 3        | 6 |
| Juvenile cases | 54        |    |          |   |

### District Court of Western Hampden

Sits at WESTFIELD-CHESTER, and for Granville, Southwick, Russell, Blandford, Tolland, Montgomery

Population 25,431, area 275.3, density 92, incidence, civil 139, criminal 15. Personnel,—1 justice, 2 special justices, 1 clerk, 1 assistant clerk, 1 probation officer. Total operating cost (1932) \$13,595; justice, \$2,395; specials: \$427 for 52 days at \$8.22.

Civil writs..... 1,692 Criminal entries Drunks released by pro-Contract..... 39 13.5% bation officer . . . . . . . . Tort..... 31 157 Removed . . . . . . . . . . . . 13 Not arrested . . . . . . . . . Summary process..... 26 All others..... 0 1,653 Cases in court..... Supplementary process.... 26

Probation.... Small claims..... Sentences In Effect Appealed 275 96 10 Imprisonment . . 34 91 3 Juvenile cases . . . . . . . . . 32

160

### District Court of Eastern Hampden

Sits at PALMER, and for Brimfield, Monson, Holland, Wales, Wilbraham

Population 18,595, area 162.4, density 114, incidence, civil 34, criminal 27.

Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer. Total operating cost (1932) \$8,304; justice, \$2,300; specials: \$1,345 for 178 days at

Criminal entries.... Drunks released by pro-817 Civil writs..... 115 bation officer..... 0 Tort..... 109 817 Removed . . . . . . . . . . . . . Not arrested . . . . . . . . . Summary process . . . . . . . All others.... Cases in court . . . . . . . . 817 Supplementary process.... 46 Small claims..... 37

In Effect Appealed Sentences 541 98 11 Imprisonment . . 49 98 2 Juvenile cases . . . . . . .34

In 1932 the justice of this court was called to sit in the Superior Court for 126 days.

### DISTRICT COURTS IN HAMPSHIRE COUNTY

District Court of Hampshire

NORTHAMPTON, AMHERST, CUMMINGTON, BELCHERTOWN, SOUTH HADLEY, HUNTINGTON, EASTHAMPTON, and for rest of county not in East Hampshire distrct (19 towns in all).

Population 64,633, area 483.7, density 134, incidence, civil 125, criminal 45. Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer, 1 assistant proba-

tion officer, 3 clerical assistants.

Total operating cost (1932) \$20,313; justice, \$3,900; specials: \$1,750 for 136 days at \$12.82.

1,457, Civil writs..... Criminal entries. 515 Drunks released by pro-Contract..... bation officer . . . . . . . 54 12.6% Tort..... 450 1,403 Removed ..... 23 Not arrested . . . . . . . . . . 30 Summary process..... 7 All others..... Cases in court . . . . . . . . . 1,373 Supplementary process.... 263 Small claims..... 420

Appealed Sentences In Effect 87 558 Imprisonment . . 99 76 31 24 Juvenile cases......

In 1932 the justice of this court also served on the Appellate Division in the Western district.

### District Court of Eastern Hampshire

| Site of   | WARE and         | for Enfield  | Groonwich    | Propontt |
|-----------|------------------|--------------|--------------|----------|
| WILLS GOD | AA TATETA CHIICE | tor rannerd, | CHECKIA ICH. | TICSCOLL |

| Personnel,—1 justice, 2 sp | ecial justices, 1 | ncidence, civil 71, criminal 99.<br>clerk, probation officer (pro tem).<br>e, \$1,700; specials: \$167 for 30 days at | \$5.59. |
|----------------------------|-------------------|---|---------|
| Criminal entries           | 149               | Civil writs   | 56      |
| Drunks released by pro-    |                   | Contract 44   |         |
| bation officer             | 6 13.6%           |   | )       |
|                            |                   | Removed   | 1       |
|                            |                   |   | 53      |
|                            | 143               | Removed   | 1       |
| Not arrested               | 2                 | Summary process   | 3       |
| _                          |                   | All others  | 0       |
| Cases in court             | 141               | Supplementary process   | 8       |
| Probation                  | 9                 | Small claims  | 38      |

| A TODAGOM                         |                       | CIMICAL                   | CALUARASSO |
|-----------------------------------|-----------------------|---------------------------|------------|
| Sentences<br>Fine<br>Imprisonment | In Effect<br>81<br>21 | % Appealed None reported. | %          |
| Juvenile cases                    | 3                     |                           |            |

### DISTRICT COURTS IN FRANKLIN COUNTY

### District Court of Franklin

Sits at GREENFIELD-TURNER'S FALLS and optional SHELBURNE FALLS-BUCKLAND, and for Ashfield, Bernardston, Charlemont, Colrain, Conway, Deerfield, Gill, Hawley, Heath, Leverett, Leyden, Monroe, Montague, Northfield, Rowe, Shutesbury, Sunderland, Whateley.
Population 41,850, area 540.4, density 78, incidence, civil 119, criminal 77.

Personnel,—I justice, 3 special justices, 1 clerk, 1 probation officer, 1 assistant probation officer, 1 clerical assistant.

Total operating cost (1932) \$12,130; justice, \$2,624; specials: \$2'149 for 210 days at

| Criminal entries Drunks released by pro-<br>bation officer | 541<br>32 23.5% | Civil writs<br>Contract<br>Tort    | 293<br>45 | 351       |
|--|-----------------|------------------------------------|-----------|-----------|
|  | 02 2010 /0      | _                                  |           | 338       |
| Not arrested   | 509<br>12       | Removed                            |           | 14        |
| Cases in court   | 497<br>128      | Supplementary process Small claims |           | 24<br>234 |

| Sentences      | In Effect | %  | Appealed | %  |
|----------------|-----------|----|----------|----|
| Fine           | 174       | 93 | 13       | 7  |
| Imprisonment   |           | 88 | 7        | 12 |
| Juvenile cases | 24        |    |          |    |

### District Court of Eastern Franklin

Sits at ORANGE, and for Erving, Warwick, Wendell, New Salem Population 7.762, area 147.5, density 53, incidence, civil 221, criminal 52

| Personnel,—1 justice, 2 spe |         | clerk, 1 probation officer.         |    |         |
|-----------------------------|---------|-------------------------------------|----|---------|
|                             |         | \$1,600; specials: \$58 for 11 days | at | \$5.28. |
| Criminal entries            | 148     | Civil writs                         |    | 35      |
| Drunks released by pro-     |         | Contract                            | 22 |         |
| bation officer              | 3 15.7% | Tort                                | 7  |         |

| bation officer | 3 15.7%  | Tort 7                          | 20      |
|----------------|----------|---------------------------------|---------|
| Not arrested   | 145<br>4 | Removed                         | 2 3     |
| Cases in court | 141<br>7 | All othersSupplementary process | 3<br>26 |

| Sentences      | In Effect | %   | Appealed | % |
|----------------|-----------|-----|----------|---|
| Fine           | 46        | 96  | 2        | 4 |
| Imprisonment   | 6         | 100 | -        | Ó |
| Juvenile cases | 7         |     |          |   |

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### DISTRICT COURTS IN BERKSHIRE COUNTY

District Court of Central Berkshire

Sits at PITTSFIELD, and for Hancock, Lanesborough, Peru, Hinsdale, Dalton, Washington, Richmond, and (concurrent), Lenox (concurrent) Becket (concurrent) Windsor Population 61,286, area 335, density 183, incidence, civil 43, criminal 36. Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer, 2 clerical assistants. Total operating cost (1932) \$15,350; justice, \$3,800; specials: \$1,200 for 96 days at

| \$12.50.<br>Criminal entries<br>Drunks released by<br>bation officer | pro-                    | 701<br>67   | 13.2% | Contr              | writsact         | 696 | 1,400     |
|--|-------------------------|-------------|-------|--------------------|------------------|-----|-----------|
| Not arrested   |                         | 634         |       | Summ               | demoved          |     | 38<br>563 |
| Cases in court Probation   |                         | ,605<br>202 |       | Supple             | ementary process |     | 68        |
| Sentences<br>Fine<br>Imprisonment                                    | In Effect<br>531<br>105 | 97          |       | pealed<br>15<br>14 | %<br>3<br>12     |     |           |

Juvenile cases . . . . . . .128 In 1932 the justice of this court served as a member of the Administrative Committee of the District Courts, as preciding justice in the appellate division in the western district, and as a member of the Judicial Council.

### District Court of Northern Berkshire

Sits at NORTH ADAMS and for Clarkshurg and Florida

| Sits at NOR1  | H AD    | AMS, and io      | r Clarksburg and Flor    | rida       |        |
|---|---------|------------------|--------------------------|------------|--------|
| Population 23,224, area 57<br>Personnel,—1 justice, 2 spe |         |                  |                          |            | stant. |
| Total operating cost (1932                                | \$9,721 | 1; justice, \$2, | 400; specials: \$331 for | 42 days at | 37.89. |
| Criminal entries  | 658     | C                | ivil writs               |            | 220    |
| Drunks released by pro-                                   |         |                  | ontract                  |            |        |
| bation officer  | 138     | 37.9% T          | ort                      | 60         |        |
|   |         | 70               |                          |            | 186    |
|   | 520     |                  | Removed                  |            | 18     |
| Not arrested  | 10      | Sı               | ummary process           |            | 26     |
|   |         | A                | ll others                |            | 8      |
| Cases in court  | 510     | Si               | upplementary process.    |            | 7      |
| Probation   | 120     | Si               | mall claims              |            | 58     |
| Sentences In Effective 128                                | t %     | Appeal           |                          |            |        |

Juvenile cases . . . . . . . . .21 In 1932 the justice of this court also served on the appellate division in the western district.

### Fourth District Court of Berkshire

Sits at ADAMS, and for Cheshire, Savoy and (concurrent) Windsor

92

Imprisonment . .

Population 15,088, area 121.2, density 124, incidence, civil 91, criminal 33. Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer, 1 clerical assistant. Total operating cost (1932) \$5,743; justice, \$2,000; specials: \$118 for 18 days at \$6.57. Criminal entries..... Drunks released by pro-Civil writs..... 449 166 Contract..... 70 bation officer . . . . . . . . 20 44 41.1% 90 405 Removed . . . . . . . . . . 2 Not arrested . . . . . . . . . 8 Summary process..... 65 All others..... 11 Cases in court . . . . . . . . . 397 Supplementary process.... 11 Probation.... Small claims..... 60 112

| Sentences                   | Effect | 0% | Appealed | %  |
|-----------------------------|--------|----|----------|----|
| Fine                        | 142    | 96 | 5        | 4  |
| Imprisonment Juvenile cases | 16     | 80 | 4        | 20 |

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### District Court of Southern Berkshire

Sits at GREAT BARRINGTON, and for Sheffield, Egremont, Alford, Mount Washington, Monterey, New Marlborough, West Stockbridge and (concurrent) Sandisfield. Population 11,078, area 291, density 38, incidence, civil 87, criminal 36. Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer.

Total operating cost (1932) \$5,436; justice, \$1,800; specials: \$177 for 30 days at \$5.92. Civil writs..... Criminal entries. Contract..... Drunks released by probation officer..... 1.5% Tort..... 30 121 Removed . . . . . . . . . . 307 10 4 Summary process..... All others..... 0 Cases in court . . . . . . . . . 303 Supplementary process.... Small claims..... 170 In Effect Sentences Appealed Fine . . . . . . . . . . . . . 138 96

97

30

Imprisonment . .

Juvenile cases . . . . . . . . . . 13

District Court of LEE Sits at LEE and for Stockbridge, Tyringham, Otis, and (concurrent) Lenox, Becket, Sandisfield

1

3

Population 10,262, area 224.9, density 45, incidence, civil 151, criminal 31.

Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer.

Total operating cost (1932) \$4,780; justice, \$1,800; specials: \$88 for 15 days at \$5.92. Civil writs..... Criminal entries..... Drunks released by pro-354 Contract..... bation officer . . . . . . . 21 27.2% Tort.... 22 62 333 Removed . . . . . . . . . . . . . Not arrested . . . . . . . . . . Summary process..... 3 4 All others.... 3

329 Cases in court . . . . . . . . . . Supplementary process.... Probation.... 22 Small claims..... Sentences In Effect Appealed 98 4 2 Imprisonment . . 17 100 0 Juvenile cases . . . . . . . . 10

### District Court of WILLIAMSTOWN

Sits at WILLIAMSTOWN, and for New Ashford

Population 3,975, area 60.4, density 65, incidence, civil 107, criminal 32.

Personnel,—1 justice, 2 special justices, 1 clerk, 1 probation officer. Total operating cost (1932) \$2,671; justice, \$700. Criminal entries.... Drunks released by pro-124 Civil writs..... Contract.....

bation officer..... 1 6.6% Tort..... 123 Removed . . . . . . . . . . . . . Summary process..... Not arrested . . . . . . . . . . . . 6 All others..... 117 Supplementary process.... Probation.... Small claims..... 17

| Sentences      | In | Effect | %  | Appealed | %   |
|----------------|----|--------|----|----------|-----|
| Fine           |    | 68     | 95 | 3        | 5   |
| Imprisonment   |    | -      | 0  | 2        | 100 |
| Inverile acces |    | B      |    |          |     |

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### DISTRICT COURT IN THE COUNTY OF DUKES COUNTY

District Court of Dukes County

Sits at OAK BLUFFS, EDGARTOWN and TISBURY-and for West Tisbury, Chilmark, Gay Head, Gosnold

Population 4,953, area 105.8, density 46.8, incidence, civil 121, criminal 32. Personnel,—1 justice, 2 special justices, 1 clerk. Total operating cost (1932) \$3,610; justice, \$1,500.

Criminal entries . . . . . . . . Drunks released by pro-Civil writs..... 41 38 6.6% bation officer . . . . . . . 1 Tort.... 1 39 152

Removed . . . . . . . . . . . . Not arrested . . . . . . . . . . . . Summary process..... 6 All others..... Cases in court . . . . . . . . . 146 Supplementary process.... Small claims..... 26 152

In Effect 95 Appealed Sentences 50  $\frac{2}{2}$ Fine . . . . . . . . . . . . . . . . 41 Imprisonment . . 71 . 5 29 Juvenile cases . . . . . . . . . 25

### DISTRICT COURT IN NANTUCKET COUNTY

District Court of Nantucket

Sits at NANTUCKET

Population 3,678, area 49.5, density 74, incidence, civil 43, criminal 36.

Personnel,—1 justice, 1 special justice, 1 clerk. Total operating cost (1932) \$3,549; justice, \$1,500; specials: \$21.

Criminal entries..... Drunks released by pro-Civil writs..... 102 bation officer . . . . . . .

Removed . . . . . . . . . . . . . 102 Not arrested . . . . . . . . . . Summary process..... 2 All others..... Cases in court . . . . . . . . . 0 Supplementary process....

Small claims..... % 75 % 25 Sentences In Effect Appealed 25 8 Imprisonment . . 10 77 3 23

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## APPENDIX B. TABLE 1

# RELATIVE WORK AND COST, STANDING AND SPECIAL JUSTICES OF DISTRICT COURTS

In considerating comparative use of special justices, allowance must be made first for the fact that each standing justice is allowed by statute thirty days' vacation without deduction of salary; and second, for outside duties assigned to certain standing justices from time to time, as indicated in the foot-note on page 90.

|  | 193 | 1928<br>30, Senate | 1930, Senate, No. 270 |               | 1932<br>Expenditures, Commession | COMMISSIO  |                                 | TRE           | 1933<br>Treasurer's Reports | ORTS |                                  | 1932<br>Cost                          |
|--|-----|--------------------|-----------------------|---------------|----------------------------------|------------|---------------------------------|---------------|-----------------------------|------|----------------------------------|---------------------------------------|
|  | Ju  | Judge*             | Special               | Paid<br>Judge | Paid<br>Special                  | In<br>Days | Per Diem<br>Special<br>Justicet | Paid<br>Judge | Paid<br>Special             | In   | Total<br>Operating<br>Cost, 1932 | per Busi-<br>ness Unit<br>(1929-1933) |
| SUFFOLK COUNTY Central (Boston Municipal)  |     | 1                  | 1                     | \$82,000      | \$8,460                          | 280        | 830.                            | \$64,500      | \$7,504                     | 282  | \$435,710                        | 1.47                                  |
| Rozbury                                    |     | 6,000              | 3,152                 | 6,000         | 3,549                            | 224        | 15.80                           | 6,000         | 8,800                       | 484  | 95,844                           | 9.79                                  |
| Dorchester                                 |     | 5,600              | 1,602                 | 4,798         | 4,082                            | 206        | 19.80                           | 5,375         | 4,068                       | 247  | 42,215                           | 1.82                                  |
| South Boston                               |     | 4,500              | 518                   | 3,369         | 2,138                            | 177        | 14.86                           | 2,386         | 1,804                       | 113  | 28,656                           | 2.21                                  |
| Chelsen                                    |     | 4,200              | 3,383                 | 3,934         | 3,786                            | 254        | 13.85                           | 3,641         | 2,663                       | 215  | 37,954                           | 1.82                                  |
| Charlestown                                |     | 3,300              | 1,379                 | 3,372         | 1,804                            | 73         | 14.86                           | 3,901         | 707                         | 020  | 33,116                           | 3.11<br>2.16                          |
| Middlesex County<br>First Eastern (Malden) |     | 0000'0             | 3,678                 | 6,000         | 6,787                            | 344        | 19.73                           | 5,400         | 6,684                       | 369  | 57,441                           | 1.24                                  |
| Third Eastern (Cambridge)                  |     | 6,000              | 6,491                 | 000'9         | 10,299                           | 522        |                                 | 5,383         | 11,181                      | 212  | 69,611                           | 1.60                                  |
| Somerville<br>Second Eastern (Waltham)     |     | 3,800              | 1,578                 | 4,600         | 3,882                            | 135        | 15.13                           | 4,293         | 3,622                       | 139  | 28,529                           | 1.46                                  |
| Fourth Eastern (Woburn) .                  |     | 3,500              | 982                   | 3,700         | 2,020                            | 166        |                                 | 3,453         | 2,220                       | 126  | 21,207                           | 1.72                                  |
| Newton                                     |     | 3,500              | 3,186                 | 3,900         | 4,320                            | 337        | 12.82                           | 3,640         | 3,373                       | 335  | 30,266                           | 1.88                                  |
| First Southern (Framingham)                |     | 2,800              | 1,551                 | 2,900         | 1,610                            | 169        |                                 | 2,706         | 1,088                       | 122  | 15,875                           | 2.36                                  |
| Central (Concord)                          |     | 2,700              | 908                   | 2,800         | 465                              | 50         |                                 | 2,240         | 427                         | 000  | 9,219                            | 2.44                                  |
| First Northern (Ayer)                      |     | 2,200              | 216                   | 223           | 2,190                            | 169        |                                 | Vacant        | 2,063                       | 11   | 8,179                            | 3.02                                  |
| Natick                                     |     | 1,800              | 324                   | 1,900         | 225                              | 36         | 6.25                            | 1,773         | 245                         | 24 · | 6,631                            | 3.07                                  |
| NORFOLE COUNTY                             |     | 4 000              | 0 100                 | 5 300         | 4 690                            | 446        | 17 43                           | 2 643         | 806 8                       | 476  | 36 076                           | 11.11                                 |
| Northern (Dedham)                          |     | 3,500              | 1,043                 | 3,700         | 1,764                            | 144        | 12.17                           | 3,453         | 1,785                       | 146  | 19,375                           | 1.94                                  |
| Brookline                                  |     | 3,100              | 3,384                 | 2,886         | 3,549                            | 327        | 10.85                           | 2,427         | 2,903                       | 284  | 26,268                           | 1.82                                  |

| Norfolk County—continued<br>Western (Franklin)  |     | 2,800                                   | 1,851                             | 2,900                            | 2,394                             | 251                          | . 9.53                                 | 2,706                            | 1,707                                | 179                                      | 20,186   | 3.37                                  |
|---|-----|---|-----------------------------------|----------------------------------|-----------------------------------|------------------------------|--|----------------------------------|--------------------------------------|--|--|---------------------------------------|
| Southern (Stoughton)  |     | 2,300                                   | 294                               | 1,502                            | 1,118                             | 148                          | 7.56                                   | Vacant                           | 2,206                                | 1  | 12,869   | 3.46                                  |
| Southern (Lynn) First (Salem) Lawrence North Central (Haverhill)  |     | 5,200<br>6,300<br>6,300<br>6,200        | 5,745<br>1,795<br>3,896<br>1,399  | 5,300<br>4,300<br>5,200<br>3,700 | 6,058<br>2,403<br>3,729<br>1,326  | 348<br>170<br>218<br>109     | 17.43<br>14.14<br>17.11<br>12.17       | 4,770<br>4,013<br>4,853<br>2,856 | 5,821<br>2,438<br>3,302<br>1,834     | 334<br>175<br>193<br>161                 | 42,453<br>32,431<br>32,800<br>24,234                   | 1.56<br>2.30<br>3.08                  |
| Eastern (Gloucester)  | * • | 2,800                                   | 632                               | 2,284                            | 372 507                           | 42                           | 7.57                                   | 2,301                            | 522 249                              | 63<br>33                                 | 11,610   | 2.62                                  |
| Peabody   |     | 2,300                                   | 514                               | 2,400                            | 1,073                             | 136                          | 7.89                                   | 2,240                            | 1,002                                | 127                                      | 15,604   | 3.34                                  |
| Second (Amesbury) Third (Ipswich)   |     | 2,400                                   | 181                               | 2,400                            | 200                               | 33                           | 7.89                                   | 2,240                            | 205                                  | 30                                       | 9,454  | 3.58                                  |
| Worcester County<br>Central (Worcester)   |     | 000'9                                   | 6,691                             | 000'9                            | 5,625                             | 285                          | 19.74                                  | 5,400                            | 5,124                                | 303                                      | 62,699   | 1.40                                  |
| Fitchburg<br>First Southern (Southbridge)<br>First Northern (Athol)<br>Second Southern (Blackstone)<br>Second Eastern (Clinton) |     | 6,000,000,000,000,000,000,000,000,000,0 | 282<br>282<br>907<br>1,261<br>252 | 2,400<br>2,400                   | 669<br>306<br>749<br>1,838<br>284 | 233<br>233<br>36<br>36<br>36 | 10.85<br>10.19<br>9.86<br>7.89<br>7.89 | 2,638<br>2,638<br>2,153<br>2,240 | 2554<br>2722<br>8222<br>296<br>1,074 | 25 8 5 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 | 13,860<br>10,805<br>12,974<br>13,516<br>9,218<br>8,786 | 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 |
| Western (East Brookfield) .   |     | 2,300                                   | 1,725                             | 2,300                            | 1,143                             | 151                          | 7.57                                   | 2,146                            | 870                                  | 1  | 7,604  | 3.77                                  |
| Third Southern (Milford) First Eastern (Westborough) Winchendon Research Corners  |     | 2,300<br>2,100<br>1,400                 | 218<br>207<br>96                  | 2,300<br>2,100<br>1,400          | 280<br>186<br>138                 | 37<br>30                     | 7.57<br>6.90<br>4.60                   | 2,146<br>1,155<br>1,306          | 1,028<br>1,29                        | 32<br>149<br>26                          | 6,949<br>7,504<br>3,874                                | 3.52                                  |
| Second (Fall River) Third (New Bedford) First (Taunton) Fourth (Attleboro)  |     | 5,400<br>3,600<br>3,000                 | 3,782<br>3,787<br>592<br>552      | 5,400<br>5,700<br>3,600<br>3,100 | 2,344<br>3,000<br>769<br>734      | 132<br>160<br>65<br>72       | 17.76<br>18.75<br>11.84<br>10.20       | 4,860<br>5,130<br>3,360<br>2,893 | 2,699<br>3,318<br>876<br>510         | 152<br>177<br>74<br>50                   | 35,017<br>37,843<br>16,201<br>17,691                   | 1.98<br>2.43<br>4.21<br>4.21          |
| Plymouth County Brockton  |     | 4,200                                   | 2,759                             | 4,200                            | 1,954                             | 141                          | 13.86                                  | 3,920                            | 1,798                                | 19                                       | 26,187   | 1.93                                  |
| Second (Abington) Third (Plymouth)  |     | 3,200                                   | 872<br>831                        | 3,200                            | 309                               | 35                           | 8.26                                   | 2,574                            | 1,205                                | 37                                       | 14,205   | 1.99                                  |
| Fourth (Middleborough)  |     | 2,500                                   | 304                               | 2,500                            | 580                               | 20                           | 8.22                                   | 1,847                            | 951                                  | 115                                      | 13,305   | 3.49                                  |
| First (Barnstable)  |     | 1,900                                   | 244                               | 2,200                            | 253                               | 325                          | 7.24                                   | 2,520                            | 269                                  | 37                                       | 10,596   | 3.12                                  |

P.D.

## APPENDIX B. TABLE 1 (Continued)

In considering comparative use of special justices, allowance must be made first for the fact that each standing justice is allowed by statute thirty days' vacation without deduction of salary; and second, for outside duties assigned to certain standing justices from time to time, as indicated in the foot-note.

|   | 1930, Se                | 1930, Senate, (270 | E                       | 1932<br>Expenditures, Commission | 2<br>Commission | 79                              | TRE                     | 1933<br>Treasuren's Reports | ONTE            |                                  | 1932<br>Cost                     |
|---|-------------------------|--------------------|-------------------------|----------------------------------|-----------------|---------------------------------|-------------------------|-----------------------------|-----------------|----------------------------------|----------------------------------|
|   | Judget                  | Special            | Paid<br>Judge           | Paid                             | In -<br>Days    | Per Diem<br>Special<br>Justicet | Paid<br>Judge           | Paid<br>Special             | In              | Total<br>Operating<br>Cost, 1932 | per Business Unit<br>(1929-1933) |
| HAMPDEN COUNTY<br>Springfield<br>Holyoke            | 6,000<br>3,700          | 5,299              | 6,000                   | 5,784                            | 293<br>155      | 19.73                           | 5,400                   | 4,663                       | 232<br>148      | 58,197                           | 1.38                             |
| Chicopee<br>Western (Westfield)<br>Eastern (Palmer) | 2,400<br>2,400<br>2,300 | 305<br>243<br>453  | 3,200<br>2,395<br>2,300 | 326<br>427<br>1,345              | 32<br>52<br>178 | 10.19<br>8.22<br>7.56           | 2,986<br>2,332<br>2,146 | 295<br>409<br>1,162         | 30<br>57<br>159 | 11,208<br>13,595<br>8,304        | 3.34                             |
| Hampshire (Ware)                                    | 5,900                   | 1,514              | 3,900                   | 1,750                            | 136             | 12.82                           | 3,640                   | 2,448                       | 191             | 20,313                           | 7.47                             |
| Franklin (Orange)                                   | 3,100                   | 1,851              | 2,624                   | 2,149                            | 210             | 10.20                           | 2,893                   | 1,321                       | <del>2</del> 0  | 12,130                           | 3.13                             |
| Central Pittsfield                                  | 3,700                   | 715                | 3,800                   | 1,200                            | 96              | 12.50                           | 3,546                   | 720                         | 61              | 15,350                           | 1.63                             |
| Northern (North Adams) .                            | 2,400                   | 326                | 2,400                   | 331                              | 4 ×             | 7.89                            | 2,240                   | 262                         | 39              | 9,721                            | 4.14                             |
| Southern (Great Barrington)                         | 008,1                   | 118                | 2,000                   | 177                              | 85              | 5.92                            | 1,680                   | 147                         | 222             | 5,436                            | 45                               |
| Williamstown  | 1,200                   |                    | 200                     | 3 1                              | 1               | 1                               | 670                     | 1                           | 2 1             | 2,671                            | 6.54                             |
| DUKES COUNTY Nantucket                              | 1,500                   | 160                | 1,500                   | 21                               | 1.1             | 1 1                             | 1,500                   | 11                          | 1.1             | 3,610                            | 2.38                             |

\* Judge's stated salary. When less drawn, it is in ( ).

† Normal per diem rate. for 1932, 10% voluntary contribution to relief funds in Suffolk County not deducted.

In considering comparative use of special justices, allowance must be made for outside duties put on certain standing justices:— (2) Service on Administrative Committee of District Courts and spreading justices on Appellate Division, by the Judges of Brookline, Third Eastern (Middlesse), and Central (Berkaihre), 1892; and in 1833 the judge of the Newburyport court in place of Third Eastern Middlesex.

| In consudering comparative use of special justices, allowance multiplier of the control of the Superior Cort as Court as Agobury Municipal 97 days 76 days Cent. Western Norfolk | 137 | 125 | 125 | 126 | 127 | 126 | 127 | 126 | 127 | 126 | 127 | 126 | 127 | 126 | 127 | 126 | 127 | 126 | 127 | 126 | 127 | 126 | 127 | 126 | 127 | 126 | 127 | 126 | 127 | 126 | 127 | 126 | 127 | 126 | 127 | 126 | 127 | 126 | 127 | 126 | 127 | 126 | 127 | 126 | 127 | 126 | 127 | 126 | 127 | 127 | 126 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 | 127 |

(3) Service on the Judicial Council by the judge of the Central Berkshire Ceurt in 1952 and 1953.

(4) Service on Appellate Divisions by the judge of saxeen different courts as indicated in the pictures in Appendix A.

APPENDIX B. TABLE 2

## APPENDIX B. TABLE 2

## SOME COMPARATIVE ASPECTS OF DISTRICT COURT CIVIL WORK

Earlier figures showing these subdivisions are available only in the Boston Municipal Court. Only when by an analysis of the work of several years a district trend or serve as a starting point, and may have a negative value in preventing too hasty conclusions from undigested For instance, removable percentages are not dependable till unremovable cases are excluded and allowance uniformity of incidence is made clear, will conclusions as to detail become safe. In the meantime the tables will has been made for differences between contract and tort entries, the latter apparently more provocative of removal. The figures in this table are of a single year's work. (1933)

The "incidence" tables give the number of persons in the district or county per entry. While on the criminal side such tables give an accurate idea of the extent of detected law-breaking of all sorts in a given area, our laws as to alternative venue of civil actions render similar conclusions on that side of the court more hazardous.

|  | Total<br>Civil<br>Writs  | Ejectment  | Re-<br>mainder-<br>Removable<br>Writs                                 | Removed   | Per Cent  | Total<br>Contract<br>and<br>Tort                                       | Per Cent<br>Tort                        | Small<br>Claims.<br>No.   | Per Cent. of<br>Removable<br>Cases              | Incidence,<br>District<br>Court<br>Civil  | Incidence,<br>Superior<br>Court<br>Law<br>Entries |
|--|--|--|---|---|---|--|---|---|---|---|---|
| Suprola County Central (Boeton Municipal) Roabury West Roabury Dorchester South Boston East Boston Chelses Chaleston     | 31,421<br>2,053<br>2,056<br>2,056<br>405<br>616<br>2,409<br>162<br>789 | 900<br>1,489<br>366<br>1,038<br>206<br>270<br>722<br>772 | 30,521<br>564<br>564<br>1,018<br>199<br>346<br>1,787<br>90<br>314     | 1,180<br>53<br>63<br>63<br>82<br>83<br>406<br>9                             | 0.00<br>0.00<br>0.00<br>0.00<br>0.00<br>0.00<br>0.00<br>0.0 | 29,757<br>550<br>444<br>1,008<br>195<br>326<br>1,758<br>82<br>311      | 222228283                               | 1,043<br>802<br>802<br>506<br>506<br>944<br>948<br>550<br>79<br>435 | 25.50 4 8.50 5.50 5.50 5.50 5.50 5.50 5.50 5.50 | 28.<br>28.<br>28.<br>28.<br>28.<br>28.<br>29.<br>29.<br>20.<br>20.<br>20.<br>20.<br>20.<br>20.<br>20.<br>20.<br>20.<br>20 |   |
| Middle Sastern (Malden) Third Eastern (Malden) Somervillee Second Eastern (Waltham) Fourth Eastern (Wolum) Nowyon Lowell | Central<br>Central<br>5,556<br>5,069<br>2,550<br>1,848<br>2,086        | out<br>in<br>1,001<br>1,041<br>571<br>345<br>113<br>146  | 4,768<br>35,289<br>4,555<br>4,028<br>1,979<br>1,955<br>1,702<br>1,817 | 675<br>1,864<br>128<br>151<br>18<br>115<br>29<br>62<br>62<br>62<br>62<br>62 | 05<br>028<br>028<br>044<br>044<br>025<br>033                | average<br>4,510<br>3,983<br>1,962<br>1,942<br>1,129<br>1,570<br>1,800 | 22.22.22.22.22.22.22.22.22.22.22.22.22. | 2,643<br>960<br>473<br>418<br>464<br>537<br>416                     | 37<br>119<br>24<br>24<br>25<br>18               | all courts 20.6 37 33 40 33 47 47 47 55 61  | 52  |

BRISTOL COUNTY

### TABLE 2 (Continued)

| Incidence,<br>Superior<br>Court<br>Law<br>Entries     | 192   | 205.9  |        |   | 187    |   | 169.1  |
|---|---|--|--------|---|--------|---|--------|
| Incidence,<br>District<br>Court<br>Civil<br>Writs     | 40<br>57<br>70<br>101<br>53   | Av. 49<br>38<br>47<br>25<br>76<br>65   | Av. 39 | 200<br>200<br>201<br>201<br>24<br>24  | Av. 48 | 38<br>135<br>172<br>177<br>177<br>166<br>166<br>124<br>163  | Av. 58 |
| Small<br>Claims.<br>Per Cent of<br>Removable<br>Cases | 21<br>36<br>37<br>10<br>37  | 8 3 1 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8  |        | 923 0 1 1 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8   |        | 20<br>20<br>11<br>12<br>19<br>19<br>19<br>19<br>17<br>17<br>17  |        |
| No.   | 228<br>304<br>195<br>136  | 1,546<br>490<br>465<br>180<br>104  |        | 553<br>4830<br>171<br>173<br>173<br>216<br>2240<br>137<br>59  |        | 86<br>110<br>88<br>112<br>68<br>118<br>68<br>118<br>83<br>83<br>83<br>83<br>83<br>83<br>83<br>83<br>83<br>83<br>83<br>83<br>83  |        |
| Per Cent<br>Tort                                      | 36<br>27<br>37<br>35<br>35  | 858<br>851<br>86<br>86<br>86<br>86<br>86<br>86<br>86<br>86<br>86<br>86<br>86<br>86<br>86           |        | 2888888   |        | なしなな」の11142<br>4アアからのアの435  |        |
| Total<br>Contract<br>and<br>Tort                      | 782<br>325<br>178<br>235  | 2,999<br>1,162<br>1,720<br>393<br>263  |        | 2,923<br>1,720<br>1,729<br>836<br>450<br>288<br>402<br>402<br>42  |        | 4,063<br>429<br>246<br>344<br>1155<br>101<br>1101<br>127<br>36  |        |
| Per Cent  | .0037<br>.0057<br>.0067<br>.042   | .042<br>.042<br>.063<br>.061   | .045   | 069<br>0072<br>0072<br>0055<br>0013   | 920.   | 0.025<br>0.025<br>0.027<br>0.04<br>0.058<br>0.058<br>0.058  | 025    |
| Removed   | 83<br>20<br>10<br>10<br>10<br>10<br>10  | 787<br>121<br>49<br>93<br>25<br>16   | 304    | 2002<br>2003<br>2003<br>2003<br>2003<br>2003<br>2003<br>2003  | 652    | 80<br>15<br>40<br>10<br>10<br>10<br>10<br>10<br>10<br>10<br>10<br>10<br>10<br>10<br>10<br>10  | 157    |
| Re-<br>mainder—<br>Removable<br>Writs                 | 827<br>325<br>178<br>235  | 19,255<br>3,070<br>1,168<br>1,743<br>404<br>272  | 6,657  | 2,946<br>1,552<br>1,757<br>1,757<br>474<br>474<br>427<br>148  | 8,583  | 4,107<br>4,38<br>249<br>349<br>349<br>1,29<br>1,77<br>1,03<br>2,01<br>1,03<br>3,7   | 6.148  |
| Ejectment   | 47<br>30<br>18<br>8<br>20   | 548<br>96<br>149<br>29   |        | 872<br>242<br>242<br>190<br>191<br>74<br>120<br>133<br>3  |        | 2,006<br>104<br>442<br>442<br>443<br>443<br>443<br>443<br>443<br>443<br>443<br>44   |        |
| Total<br>Civil<br>Writs                               | 874<br>567<br>343<br>186<br>255   | 3,618<br>1,264<br>1,892<br>446<br>301  |        | 3,818<br>1,794<br>1,137<br>1,137<br>1,137<br>4,111<br>500<br>161<br>45  |        | 6,116<br>542<br>291<br>291<br>390<br>145<br>185<br>279<br>274<br>234<br>142<br>38   |        |
|   |   |  |        |   |        |   |        |
|   | First Southern (Framingham)<br>Central (Concord)<br>Marlboro<br>First Northern (Ayer) | Nobpola County Easten (Quincy) Northern (Dodham) Brookline Western (Franklin) Southern (Scoughton) |        | EEEE COUNTY Southern (Lyan) First (Salem) Forst (Salem) North Central (Haverhill) Eastern (Gloucester) Newburyort Peahodyport Eecond (Amesbury) Third (Ipsewid) |        | Woncesters County<br>Voncesters County<br>First Southern (Southbridge)<br>First Southern (Athol)<br>Second Southern (Clinton)<br>Leominster (Blackstone)<br>Leominster Brockfeld)<br>Third Southern (Milford)<br>Wintlendon |        |

|  | 398.4             |  | 278.8            |  | 188.8    |                             | 160.2  |                  | 293.5   |  | 398.4   |  | 420.5  | 381                             | 148.6 |
|--|-------------------|--|------------------|--|----------|-----------------------------|--------|------------------|---------|--|---------|--|--------|---------------------------------|-------|
| 56<br>80.7<br>78.6<br>130  | Av. 71            | 51<br>65<br>86<br>107  | Av. 62           | 45<br>66                                 | Av. 52.2 | 984<br>139<br>34            | Av. 58 | 125<br>71        | Av. 115 | 119  | Av. 128 | 106<br>91<br>87<br>141<br>107  | Av. 59 | 121                             | 34    |
| 23<br>25<br>39   |                   | 19<br>32<br>54   |                  | 53                                       |          | 25223<br>25223<br>25223     |        | 8 2              |         | 40   |         | 25.50.50.50  |        | 50                              | 1     |
| 479<br>343<br>217<br>183   |                   | 340<br>342<br>106<br>219   |                  | 257                                      |          | 950<br>322<br>45<br>46      |        | 420              |         | 234  |         | 246<br>58<br>1112<br>170<br>80   |        | 152                             | 1     |
| 38<br>31<br>18<br>18   |                   | 153332   |                  | 17                                       |          | 28<br>30<br>27<br>111<br>6  |        | 18               |         | 13   |         | 2222222<br>2222222<br>235<br>235<br>235<br>235<br>235<br>235   |        | .02                             | ı     |
| 1,377<br>1,401<br>610<br>275   |                   | 1,149<br>491<br>188<br>182   |                  | 391                                      |          | 3,330<br>550<br>320<br>167  |        | 450              |         | 338  |         | 819<br>186<br>90<br>121<br>62  |        | 828                             | 1     |
| .043   | .062              | 058  | .052             | .063                                     | .062     | .057<br>.11<br>.067<br>.082 | .065   | .05              | .047    | .041   | .043    | .045<br>.093<br>.082<br>.11  |        | .051                            | .025  |
| 104<br>65<br>32<br>32  | 247               | 75<br>30<br>8<br>11  | 124              | 25                                       | 36       | 194<br>62<br>22<br>13       | 293    | 133              | 24      | 42   | 16      | 1288   | 75     | 21                              | eo 1  |
| 1,547<br>1,484<br>653<br>278   | 3,962             | 1,413<br>537<br>218<br>184   | 2,352            | 392<br>192                               | 584      | 3,364<br>5557<br>326<br>111 | 4,515  | 457<br>53        | 510     | 342  | 374     | 837<br>194<br>101<br>121<br>65   | 1,349  | 39                              | 121   |
| 770<br>280<br>88<br>38   |                   | 153<br>61<br>25<br>16  |                  | 20                                       |          | 565<br>114<br>119<br>26     | 1      | 25 25            | 1       | 0.00   | 1       | 2563   | 1      | 0400                            | 1     |
| 2,317<br>1,764<br>716<br>316   |                   | 1,566<br>598<br>243<br>200   |                  | 412                                      |          | 3,929<br>671<br>445<br>183  |        | 515<br>56        |         | 351  |         | 1,400<br>220<br>166<br>127<br>68<br>37   |        | 85                              | ı     |
|  |                   |  |                  |  |          | * * * * *                   |        |                  |         |  |         |  |        |                                 |       |
|  |                   |  |                  |  |          |                             |        |                  |         |  |         | · · · · · · · · · · · · · · · · · · ·  |        |                                 |       |
| Second (Fall River) Third (New Bedford) First (Taunton) Fourth (Attleboro) | Dr vaccente Corum | Breckton<br>Second (Abington)<br>Third (Plymouth)<br>Fourth (Middleboro) | Rapuspanta Comme | First (Barnstable) Second (Provincetown) | U        | Springfield                 | D.     | Hampshire (Ware) | 5       | Franklin<br>Franklin<br>East Franklin (Orange) | D       | Describition of the control of the c |        | DUKES COUNTY. NANTUCKET COUNTY. | STATE |

P.

### APPENDIX B. TABLE 3

### DISTRICT COURTS

### Business Load 1918 and 1933 not Distributed Between Civil and Criminal

For explanation of this table, see Report pages 12-14.

|   |        |   |   |   |   | Po                | PULATION          |       | В         | USINESS UN     | IIT3            |
|---|--------|---|---|---|---|-------------------|-------------------|-------|-----------|----------------|-----------------|
|   |        |   |   |   |   | Census<br>of 1915 | Census<br>of 1930 | Gain  | %<br>Gain | 1918<br>Survey | 1933<br>Survey  |
| SUFFOLK COUNTY<br>Central (Boston Municipal | 1)     |   |   |   |   |                   | 130,056           |       | 85        | 145,231        | 268,879         |
| Roxbury                                     | 8)     |   |   | * | * | 152,860           | 153,608           | 5     | 125       | 15,258         | 34,307          |
| Vest Roxbury                                |        |   |   |   |   | 79,287            | 113,992           | 44    | 130       | 5.098          | 11,71           |
| Oorchester                                  |        |   |   |   |   | 120,845           | 172,818           | 43    | 310       | 5,624          | 23,07           |
| outh Boston                                 |        |   |   |   |   | 72.866            | 61,215            | -16   | 15        | 11,175         | 12.93           |
| ast Boston                                  |        |   |   |   |   | 78,438            | 78,306            | -0.16 | 98        | 8.381          | 16,543          |
| helsea                                      |        |   |   |   |   | 68,601            | 81,496            | 19    | 174       | 7,584          | 20,81           |
| harlestown                                  |        |   |   |   |   | 39,601            | 31,663            | -20   | 45        | 7.348          | 10,640          |
| righton                                     |        |   |   |   |   | 34,782            | 56,362            | 62    | 190       | 3.178          | 9,203           |
| MIDDLESEX COUNTY                            |        |   |   |   |   | 1                 |                   |       |           |                |                 |
| irst Eastern (Malden)                       |        |   |   |   |   | 146,795           | 205,662           | 40    | 297       | 11,658         | 46,24           |
| hird Eastern (Cambridge                     | e) .   |   |   |   |   | 131,792           | 171,485           | 30    | 217       | 13,703         | 43,37           |
| omerville                                   |        |   |   |   |   | 86,854            | 103,908           | 20    | 248       | 5,449          | 18,973          |
| econd Eastern (Waltham                      | 1)     |   |   |   |   | 49,011            | 77,492            | 58    | 318       | 4,126          | 17,26-<br>12,29 |
| ourth Eastern (Woburn)                      |        |   |   |   |   | 45,082            | 59,660            | 32    | 246       | 3,554          | 12,29           |
| lewton                                      |        |   |   |   |   | 43,113            | 65,276            | 51    | 354       | 3,533          | 16,05           |
| owell                                       |        |   |   |   |   | 127,022           | 127,375           | 0.27  | 70        | 9,807          | 16,69           |
| irst Southern (Framingh                     | am)    |   |   |   |   | 27,063            | 35,096            | 30    | 160       | 2,609          | 6,72            |
| entral (Concord) .                          |        |   |   |   |   | 25,432            | 32,389            | 27    | 226       | 1,662          | 5,42            |
| farlboro .                                  |        |   |   |   |   | 22,008            | 24,056            | 9     | 204       | 1,044          | 3,17            |
| irst Northern (Ayer)                        |        |   |   |   |   | 17,333            | 18,936            | 9     | 77        | 1,533          | 2,71            |
| atick                                       |        |   |   |   |   | 11,119            | 13,589            | 22    | -         | -              | 2,37            |
| NORFOLK COUNTY                              |        |   |   |   |   | 00.000            | ***               |       |           |                |                 |
| astern (Quincy) .                           |        |   | * |   |   | 83,068            | 138,000           | 66    | 342       | 7,116          | 31,44           |
| orthern (Dedham) .                          |        |   |   |   |   | 41,096            | 59,827            | 46    | 260       | 2,773          | 9,93            |
| rookline                                    |        | * | - |   |   | 33,490            | 47,490            | 42    | 300       | 3,621          | 14,42           |
| estern (Franklin) .                         |        |   |   |   |   | 27,016            | 34,324            | 27    | 307       | 1,371          | 5,58            |
| Outhern (Stoughton) Essex County            | 0      |   |   |   |   | 17,237            | 19,785            | 15    | 218       | 1,168          | 3,71            |
| ESSEX COUNTY                                |        |   |   |   |   | 122,367           | 137.688           | 10    | 0.0       | 14 700         | 09.04           |
| outhern (Lynn) .                            |        |   |   |   |   |                   |                   | 13    | 85<br>93  | 14,702         | 27.24           |
| irst (Salem)                                |        |   |   |   |   | 79,709            | 89,893            | 13    |           | 8,491          | 16,38           |
| orth Central (Haverhill)                    |        |   |   |   |   | 118,200           | 123,067           | 4     | 57        | 9,043          | 14,22           |
|   |        |   |   |   |   | 56,128<br>30,506  | 53,700            | -4    | 42        | 5,589          | 7,92            |
| astern (Gloucester)                         |        |   |   |   |   | 21,628            | 29,299<br>21,713  | -4    | 25        | 3,548          | 4,42            |
| ewburyport                                  |        |   |   |   | * | 19.737            | 22,939            | 0.4   | 115       | 1,674          | 3,59            |
| econd (Amesbury) .                          |        | 4 |   |   |   | 12,361            | 16,485            | 16    | 260       | 734            | 4,66            |
| hird (Ipswich)                              |        |   |   |   |   | 6,272             | 5,599             | 33    |           |                | 2,64            |
| WORCESTER COUNTY                            |        |   |   |   |   | 0,212             | 0,099             | -11   | 15        | 655            | 78              |
| entral (Worcester)                          |        |   |   |   |   | 191.219           | 235,745           | 23    | 120       | 20.318         | 44.00           |
| itchburg                                    |        |   |   |   |   | 43,325            | 44.694            | 3     | 26        | 3.854          | 44,66           |
| irst Southern (Southbrid                    | (ma)   |   |   |   |   | 38,462            | 39,390            | 2     | 122       | 2,134          | 4,73            |
| irst Northern (Athol)                       | BC/    |   |   |   |   | 35,609            | 39,436            | 11    | 96        | 1,913          | 3.73            |
| econd Southern (Blackst                     | one)   |   |   |   |   | 22,043            | 24,978            | 13    | 154       | 794            | 2.0             |
| econd Eastern (Clinton)                     | OLEC / |   |   |   | ٠ | 20,700            | 21,139            | 2     | 100       | 1.013          | 2,0             |
| eominster                                   |        |   |   |   |   | 17,646            | 21,810            | 24    | 100       | 1.203          | 2,49            |
| Vestern (East Brookfield)                   | 1      |   | ٠ |   |   | 20,605            | 19,450            | -6    | 154       | 793            | 2,0             |
| hird Southern (Milford)                     | ,      |   |   |   |   | 19,316            | 20,847            | 8     | 110       | 942            | 1.9             |
| irst Eastern (Westborou                     | gh)    |   |   |   |   | 15,870            | 17.551            | 11    | 261       | 531            | 1.9             |
| Vinchendon                                  | Ser.   |   |   |   |   | 5,908             | 17,551<br>6,202   | 5     | 25        | 405            | 1,9             |
| BRISTOL COUNTY                              |        | - |   |   |   | 0,000             | 0,202             |       | 20        | 100            | .,              |
| econd (Fall River)                          |        |   |   |   |   | 132,389           | 130,677           | -1.3  | 79        | 9.846          | 17.6            |
| hird (New Bedford)                          |        |   |   |   |   | 126,824           | 142,482           | 12    | 75        | 9,009          | 15.7            |
| irst (Taunton)                              | -      |   |   |   |   | 51.514            | 56,428            | 10    | 100       | 3.788          | 7.5             |
| ourth (Attleboro) .                         |        |   |   |   |   | 51,514<br>36,237  | 41,067            | 13    | 66        | 2,526          | 4,2             |
| PLYMOUTH COUNTY                             |        | - |   |   |   | ,                 |                   |       | 0.5       | -1020          | 1               |
| rockton                                     |        |   |   |   |   | 78,099            | 80,377            | 3     | 89        | 7.177          | 13,5            |
| econd (Abington)                            |        |   |   |   |   | 36,480            | 39,367            | 8     | 128       | 3,122          | 7,1             |
| hird (Plymouth) .                           |        |   |   |   |   | 21.726            | 21,038            | -3    | 142       | 1.331          | 3.2             |
| ourth (Middleborough)                       |        |   |   |   |   | 20,998            | 21,529            | 2.5   | 266       | 1,039          | 3,8             |
| BARNSTABLE COUNTY                           |        | - |   |   |   | ,                 | ,020              |       | 1         | 1,000          | 0,0             |
| irst (Barnstable) .                         |        |   |   |   |   | 14,762            | 18,579            | 26    | 231       | 1,486          | 4.9             |
| econd (Provincetown)                        |        |   |   |   |   | 14,056            | 13,726            | -2.3  | 263       | 794            | 2,8             |
| HAMPDEN COUNTY                              |        |   |   | - |   | 1000              | 23,120            | 2.0   | 200       | 101            | 2,0             |
| pringfield                                  |        |   |   |   |   | 129,507           | 191,003           | 47    | 229       | 12,765         | 41,9            |
| olyoke                                      | -      |   |   |   |   | 60,816            | 56,537            | -7    | 51        | 4,227          | 6,3             |
| hicopee                                     | -      | - |   |   |   | 30,138            | 43,930            | 46    | 76        | 1,910          | 3,3             |
| Vestern (Westfield) .                       |        |   |   |   |   | 24,060            | 25,431            | 6     | 35        | 2,800          | 3,7             |
|   |        |   |   |   |   | 18,423            | 18,595            | 0.9   | 205       | 865            | 2,6             |
| astern (Palmer)                             |        |   |   |   |   |                   |                   | . 0.0 | . 400     | 000            | 4 40            |
| astern (Palmer) .                           |        | 0 |   |   |   |                   |                   | 1     |           |                | 1               |
| Castern (Palmer) HAMPSHIRE COUNTY Hampshire |        |   |   |   |   | 58,672            | 64,633            | 10    | 139       | 2,916          | 6,9             |

### TABLE 3-Continued

### DISTRICT COURTS-Continued

|                             |  |  | Pe                | PULATION          |           | В         | USINESS UN     | птв            |
|-----------------------------|--|--|-------------------|-------------------|-----------|-----------|----------------|----------------|
|                             |  |  | Census<br>of 1915 | Census<br>of 1930 | %<br>Gain | %<br>Gain | 1918<br>Survey | 1933<br>Survey |
| FRANKLIN COUNTY             |  |  | 40,219            | 41.850            | 4         | 55        | 2,492          | 3,860          |
| East Franklin (Orange) .    |  |  | 8,037             | 7.762             | -3.4      | 157       | 236            | 60             |
| BERKSHIRE COUNTY            |  |  |                   |                   |           |           |                | -              |
| Central (Pittsfield)        |  |  | 51,574            | 61.286            | 19        | 126       | 4.146          | 9,37           |
| Northern (North Adams)      |  |  | 23.576            | 23,224            | -1.5      | 33        | 1.767          | 2,34           |
| Fourth (Adams)              |  |  | 15,652            | 15,088            | -3.6      | 19        | 1.291          | 1,54           |
| Southern (Great Barrington) |  |  | 12.683            | 11,076            | -13       | 97        | 876            | 1.72           |
| ee                          |  |  | 11.930            | 10.262            | -14       | 90        | 674            | 1,27           |
| Williamstown                |  |  | 4.073             | 3,975             | -2.4      | 158       | 159            | 40             |
| DUKES COUNTY                |  |  | 4,904             | 4,953             | 1         | 335       | 371            | 1,61           |
| Nantucket                   |  |  |                   | 3,678             | _         | -         | -              | 71             |

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APPENDIX B. TABLE 4
DISTRIBUTION OF CIVIL AND CRIMINAL LOAD. (See Report, p. 12)

|  |                           | INAL BUSIN                | E88          | Civi                      | L BUSINES                 | 8            |
|--|---------------------------|---------------------------|--------------|---------------------------|---------------------------|--------------|
| Court  | Business<br>Units<br>1918 | Business<br>Units<br>1933 | %<br>Gain    | Business<br>Units<br>1918 | Business<br>Units<br>1933 | %<br>Gai     |
| SUFFOLE COUNTY   |                           |                           |              |                           |                           |              |
| entral (Boston Municipal)                              | . 64,952<br>. 14,286      | 68,693                    | 6<br>76      | 80,278                    | 200,183                   | 149          |
| Vest Roxbury   | 4,717                     | 25,209<br>7,510           | 59           | 972<br>381                | 9,058<br>4,201            | 832<br>1,003 |
| orchester  | . 4,634                   | 13,113                    | 183          | 1.010                     | 9,964                     | 887          |
| outh Boston  | . 10,709                  | 11,080                    | 3            | 466                       | 1,857                     | 300          |
| ast Boston   | . 5,566                   | 12,020                    | 116          | 915                       | 4,525                     | 395          |
| helsea   | . 5,795                   | 8,284                     | 43           | 1,789                     | 12,527                    | 600          |
| harlestown   | . 7,070                   | 9,699                     | 37           | 278                       | 941                       | 239          |
| MIDDLESEX COUNTY                                       | . 2,917                   | 5,045                     | 73           | 261                       | 4,160                     | 1,494        |
| irst Eastern (Malden)                                  | . 3,818                   | 11,311                    | 196          | 7,840                     | 34,936                    | 346          |
| hird Eastern (Cambridge)                               | 6,799                     | 14,456                    | 113          | 6,904                     | 28,921                    | 319          |
| omerville  | . 2,193                   | 3,581                     | 63           | 3.256                     | 15,390                    | 370          |
| econd Eastern (Waltham)                                | . 2,112                   | 4,128                     | 95           | 2,014                     | 13,136                    | 552          |
| ourth Eastern (Woburn)                                 | . 1,773                   | 4,004                     | 126          | 1,781                     | 8.289                     | 365          |
| ewton  | . 1,628                   | 4,927                     | 203          | 1,905                     | 11,123<br>10,716          | 480          |
| irst Southern (Framingham)                             | . 6,796                   | 5,979<br>2,212            | $-12 \\ 112$ | 3,011                     |                           | 25€          |
| entral (Concord)                                       | 1,042                     | 1.951                     | 84           | 1,567<br>602              | 4,508                     | 188          |
| larlboro   | . 640                     | 1,005                     | 57           | 404                       | 3,476<br>2,173            | 477          |
| irst Northern (Ayer)                                   | . 1,235                   | 1,703                     | 38           | 295                       | 1.007                     | 241          |
| atick  |                           | 672                       | -            | -                         | 1,487                     | - 17         |
| NORFOLK COUNTY   |                           | 10.000                    |              |                           |                           |              |
| astern (Quincy)  | . 3,682                   | 10,102                    | 174          | 3,434                     | 21,341                    | 522          |
| rookline   | . 1,508                   | 3,092<br>4,062            | 98<br>250    | 1,265<br>2,462            | 6,899                     | 445<br>321   |
| estern (Franklin)                                      | 772                       | 3,224                     | 318          | 599                       | 10,367 $2,657$            | 344          |
| outhern (Stoughton)                                    | . 657                     | 1,813                     | 176          | 511                       | 1,898                     | 271          |
| ESSEX COUNTY   |                           |                           |              |                           | .,                        |              |
| outhern (Lynn)   | . 6,860                   | 7,395                     | 8            | 7,842                     | 19,851                    | 153          |
| rst (Salem)  | . 3,762                   | 6,225                     | 65           | 4,729                     | 10,157                    | 113          |
| orth Central (Haverhill)                               | 5,492                     | 5,377                     | -2           | 3,551                     | 8,843                     | 149          |
| astern (Gloucester)                                    | . 2,924                   | 1,773<br>1,659            | -40<br>8     | 2,665<br>2,006            | 6,148<br>2,769            | 131          |
| ewhurvport   | 1.051                     | 1,276                     | 21           | 623                       | 2,709                     | 38<br>272    |
| eabody   |                           | 1,748                     |              | 020                       | 2,918                     | 212          |
| econd (Amesbury)                                       | . 469                     | 1,463                     | 212          | 265                       | 1,177                     | 344          |
| hird (Ipswich)   | . 411                     | 396                       | -4           | 244                       | 356                       | 46           |
| WORCESTER COUNTY                                       | ** ***                    | 40.040                    | -            |                           |                           |              |
| entral (Worcester)                                     | . 11,512                  | 12,315                    | -20          | 8,806                     | 32,347                    | 267          |
| irst Southern (Southbridge)                            | 1.299                     | 1,942<br>3,031            |              | 1,417                     | 2,899                     | 103          |
| irst Northern (Athol)                                  | 1,102                     | 1,942                     | 133<br>76    | 835<br>811                | 1,707<br>1,809            | 104          |
| econd Southern (Blackstone)<br>econd Eastern (Clinton) | . 524                     | 1,036                     | 98           | 270                       | 983                       | 264          |
| econd Eastern (Clinton)                                | . 748                     | 1,007                     | 35           | 265                       | 1.022                     | 286          |
| eominster  | . 648                     | 925                       | 43           | 558                       | 1,565                     | 180          |
| hird Southern (Milford)                                | . 604                     | 1,375                     | 128          | 189                       | 642                       | 240          |
| hird Southern (Milford)<br>irst Eastern (Westborough)  | . 547                     | 675<br>1,116              | 23<br>264    | 395                       | 1,299                     | 229<br>258   |
| Vinchendon   | 273                       | 255                       | 204<br>-7    | 132                       | 250                       | 258          |
| BRISTOL COUNTY   | . 2.0                     | 200                       | ,            | 100                       | 200                       | 30           |
| econd (Fall River)                                     | . 5,662                   | 6,240                     | 10           | 4,184                     | 11,397                    | 172          |
| hird (New Bedford)                                     | . 5,454                   | 5,805                     | 6            | 3,555                     | 9,943                     | 180          |
| irst (Taunton)   | . 2,360                   | 3,473                     | 47           | 1,428                     | 4,097                     | 190          |
| OURTH (Attleboro)                                      | . 1,692                   | 1,993                     | 18           | 834                       | 2,208                     | 147          |
| rockton  | . 3,995                   | 5,050                     | 26           | 3,182                     | 8,479                     | 166          |
| econd (Abington)                                       | . 1,931                   | 3,290                     | 70           | 1.191                     | 3,820                     | 221          |
| hird (Plymouth)  | . 728                     | 1,502                     | 106          | 603                       | 1,723                     | 189          |
| ourth (Middleborough)                                  | . 620                     | 2,328                     | 275          | 419                       | 1,474                     | 252          |
| BARNSTABLE COUNTY<br>irst (Barnstable)                 | 400                       | 0                         | 000          |                           | 0.7.5                     |              |
| econd (Provincetown)                                   | . 469                     | 2,171                     | 363          | 1,017                     | 2,747                     | 170          |
| HAMPDEN COUNTY   | . 371                     | 1,092                     | 194          | 423                       | 1,787                     | 322          |
| pringfield   | . 5,769                   | 17,577                    | 205          | 6,996                     | 24,375                    | 245          |
| olyoke   | . 2,682                   | 2,460                     | -8           | 1,545                     | 3,927                     | 154          |
| nicopee  | . 1,355                   | 1,446                     | 7            | 555                       | 1,907                     | 244          |
| estern (Westfield)                                     | . 1,653                   | 2,653                     | 61           | 1,147                     | 1,134                     | -1           |
| stern (Palmer)   | . 732                     | 1,886                     | 158          | 135                       | 752                       | 457          |
| HAMPSHIRE COUNTY                                       | 1.010                     | 2 000                     | 0.0          | 1 200                     | 0.05                      | 000          |
| ast Hampshire (Ware)                                   | . 1,618                   | 3,026<br>319              | 88           | 1,298                     | 3,954                     | 203          |
| FRANKLIN COUNTY  | . 004                     | 319                       | -4           | 110                       | 318                       | 190          |
| ranklin  | . 1.231                   | 1,592                     | 29           | 1,261                     | 2,277                     | 81           |
| ast Franklin (Orange)                                  | . 151                     | 271                       | 80           | 1,201                     | 336                       | 293          |
| BERKSHIRE COUNTY                                       |                           |                           | 00           |                           |                           | 200          |
| entral (Pittsfield)                                    | . 2,357                   | 3,899                     | 65           | 1,789                     | 5,471                     | 203          |
| orthern (North Adams)                                  | . 1,390                   | 1,030                     | 26           | 377                       | 1,317                     | 250          |
| ourth (Adams)  | . 962                     | 909                       | -6           | 329                       | 633                       | 92           |
| outhern (Great Barrington)                             | . 464                     | 671                       | 45           | 412                       | 1,057                     | 157          |
| ee<br>illiamstown                                      | . 534                     | 811<br>219                | 52<br>84     | 140                       | 466                       | 233          |
|  | . 161                     | 767                       | 376          | 40<br>210                 | 189<br>848                | 373          |
| DUKES COUNTY   |                           |                           |              |                           |                           |              |

### APPENDIX C.

### PROBATE COURTS

### SUFFOLK COUNTY DETAILS FOR 1933

| New Cases Entered   | Probate   |                 |        |        |      |           |        |             | 4,786   |        |
|---|---|-----------------|--------|--------|------|-----------|--------|-------------|---------|--------|
|   | Divorce   |                 |        |        |      |           |        |             | 1,283   |        |
|   | Commitm   | nents o         | of Ins | sane   |      |           | •      |             | 1,151   |        |
|   | Total   |                 |        |        |      |           |        |             | 7,220   |        |
| Number of decrees ent   |   | orded           |        |        | *    |           |        |             | .,      | 6,207  |
| Many decrees entered l  |   |                 |        | ed and | are  | not inclu | ided   | in          |         | 0,201  |
| above figure.   |   |                 |        |        |      |           |        |             |         | 00 105 |
| Total number of paper   | s recorded  |                 |        |        |      |           |        |             |         | 28,127 |
| Original libels for divo<br>Subsidiary proceedings  | rce tried and                                     | dispo           | sed o  | of     |      |           |        |             | 1,049   |        |
| Subsidiary proceedings  | in divorce t                                      | ried a          | nd di  | sposed | d of |           |        |             | 422     |        |
| Probate cases tried and   | d disposed of                                     |                 |        |        |      | •         |        |             | 1,117   |        |
|   | Total   |                 |        |        |      |           |        |             | 2,588   |        |
| Temporary custody an  |   | alimo           | ony d  | ecrees | are  | not incl  | ided   | in          | 2,000   |        |
| above figures.  |   |                 |        |        |      |           |        |             |         |        |
| Included in the 1,049 li<br>which were fully l  |   |                 |        |        |      | of are 12 | 22 lib | els         |         |        |
| Number of people in a   |   |                 |        |        |      | 1933      |        |             |         | 58,186 |
|   |   |                 |        |        |      |           | 1at    | to          |         |        |
|   | attendance  |                 |        |        |      |           |        |             |         | 00,200 |
| Number of people in   |   |                 | -      |        |      |           |        |             |         |        |
| Number of people in<br>November 10, 193<br>No cases heard by Co                                   | 34 .<br>ourt in 1933                              | undis           | -      |        |      |           |        |             |         | 40,538 |
| Number of people in<br>November 10, 193<br>No cases heard by Co<br>Supreme Judicial               | 34 .<br>ourt in 1933<br>Court on ap               | undispeal.      | posed  |        |      |           |        | in          | 991 00  |        |
| Number of people in<br>November 10, 193<br>No cases heard by Co<br>Supreme Judicial               | 34 .<br>ourt in 1933<br>Court on ap<br>Probate    | undisp<br>peal. | posed  | of ex  | cept |           | ding   | in<br>\$13, | ,221 00 |        |
| Number of people in<br>November 10, 193<br>No cases heard by Co<br>Supreme Judicial<br>Entry Fees | ourt in 1933<br>Court on ap<br>Probate<br>Divorce | undispeal.      | posed  | of ex  | cept | one pen   | ding   | in<br>\$13, | 380.00  |        |
| Number of people in<br>November 10, 193<br>No cases heard by Co<br>Supreme Judicial               | ourt in 1933<br>Court on ap<br>Probate<br>Divorce | undispeal.      | posed  | of ex  | cept | one pen   | ding   | in<br>\$13, |         |        |

### MIDDLESEX COUNTY DETAILS, 1933

| PROBATE         |       |        |       |       | 1933      | Dive     | RCE      |        |        |   |      | 1933    |
|-----------------|-------|--------|-------|-------|-----------|----------|----------|--------|--------|---|------|---------|
| New Cases       |       |        |       |       | 5,126     | New C    | ases     |        |        |   |      | 1,034   |
| Papers filed    |       |        |       |       | 41,460    | Papers   | filed    |        |        |   |      | 3,520   |
| Accounts filed  |       |        |       |       | 4,487     | Decree   | s nisi   |        |        |   |      | 724     |
| Decrees .       |       |        |       |       | 12,808    | Decree   | s all of | thers  |        |   |      | 709     |
| Certificates    |       |        |       |       | 13,886    | Certific | eates    |        |        |   |      | 933     |
| Pages-atteste   | d cor | v      |       |       | 23,855    | Orders   | of not   | ice    |        |   |      | 1,092   |
| Citations .     |       |        |       |       | 4,961     | Petitio  | n-Me     | difica | ation  |   |      | 92      |
| Letters .       |       |        |       |       | 5,192     | Petitio  | n-Co     | ntem   | pt     |   |      | 47      |
| Licenses .      |       |        |       |       | 304       |          |          |        |        |   |      |         |
| Fees collected  |       |        |       |       |           |          |          |        |        | ٠ | \$33 | ,333.75 |
|                 |       |        |       |       | TRIAL RE  | CORD     |          |        |        |   |      |         |
| Cases assigned  |       |        |       |       |           |          |          | ٠      |        |   |      | 2,231   |
| Cases tried and | disp  | osed   | of    |       |           |          |          |        |        |   |      | 1,433   |
| Designations o  | f spe | cial a | nd ou | t-of- | county ju | dges .   |          |        |        |   |      | 301     |
| Days during w   | hich  | Cour   | t sat | for t | rials     |          |          |        |        |   |      | 356     |
| Decrees enter 1 |       | A.     | L T.  |       | - T.J     | J 0-1 14 |          | Q      | tombor |   |      | 960     |

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### HAMPDEN COUNTY DETAILS, 1933

| . 280 |
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| . 240 |
| . 219 |
| . 286 |
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|       |
|       |
| . 799 |
| . 545 |
| . 49  |
| . 190 |
|       |

### BERKSHIRE COUNTY DETAILS, 1933

| PROBATE ENTRIES            |       |    |        | DIVORCE E     | TRI | ES   |  |     |
|----------------------------|-------|----|--------|---------------|-----|------|--|-----|
| Trial Probate Entries      |       |    | 727    | Total Divorce | Ent | ries |  | 132 |
| Administration .           |       |    | 276    | Divorces      |     |      |  | 130 |
| Will                       |       |    | 241    | Annulments    |     |      |  | 2   |
| Separate Support .         |       |    | 29     |               |     |      |  |     |
| Marriage without delay     |       |    | 15     |               |     |      |  |     |
| Conservator                |       |    | 25     |               |     |      |  |     |
| Adp. and Change of Name    |       |    | 25     |               |     |      |  |     |
| Guardianship               |       |    | 95     |               |     |      |  |     |
| Custody of Children .      |       |    |        |               |     |      |  |     |
| Desertion and Living Apar  | rt.   |    | 3<br>6 |               |     |      |  |     |
| Partition and Sale of Real |       | te | 5      |               |     |      |  |     |
| Receiver                   | 23000 |    | 2      |               |     |      |  |     |
| Power of Attorney .        | •     | •  | 2      |               |     |      |  |     |
| App. of Trustee .          |       |    | ī      |               |     |      |  |     |
| License of minor to marry  |       | ,  | î      |               |     |      |  |     |
| Sale Real Est. by Foreign  |       |    | î      |               |     |      |  |     |

9590

# ABSTRACT AND TABULAR STATEMENT OF THE RETURNS RELATIVE TO THE LAW, EQUITY, DIVORCE AND CRIMINAL BUSINESS OF THE SUPERIOR COURT

FOR THE YEAR ENDING JUNE 30, 1934, IN COMPLIANCE WITH GENERAL LAWS, CHAFTER 221, SECTION 24, AS AMENDED (Naturalization Business not included)

|            |           |     |   |   |   |   |          | (IVE                                    | turanzatı                  | (Naturalization Dusiness not included) | SS HOU INC                                   | CIVII. CARES               |      |   |                            |                      |                              |
|------------|-----------|-----|---|---|---|---|----------|---|----------------------------|--|--|----------------------------|------|---|----------------------------|----------------------|------------------------------|
|            | Committee | 100 |   |   |   |   | Nowber P | Number Pending at Beginning<br>of Year. | BEGINNING                  | NUMBER OF                              | NUMBER OF NEW CASES ENTERED BULING THE YEAR. | S ENTERED                  |      | NUMBER DISPOSED OF IN<br>PREVIOUS YEARS AND BROUGHT<br>FORWARD THIS YEAR. | BROUGHT EAR.               | NUMBER<br>TRANS-     | NUMBER<br>TRANG-             |
|            |           |     |   |   |   |   | Law.     | Equity.                                 | Divorce<br>and<br>Nullity. | Law.                                   | Equity.                                      | Divores<br>and<br>Nullity. | Law. | Equity.   | Divorce<br>and<br>Nullity. | LAW<br>TO<br>EQUITT. | FROM<br>Equity<br>TO<br>LAW. |
| Barnstable |           | ٠   | ٠ | ٠ | ٠ |   | 395      | 25                                      | ,                          | 168                                    | 17   | 1                          | 1    | 1   | 1                          | ı                    | 1                            |
| Berkshire  | ٠         | ۰   |   | ۰ | ٠ |   | 269      | 136                                     | 1                          | 269                                    | 20   | 1                          | 1    | 63  | 1                          | 1                    | 64                           |
| Bristol .  |           | ٠   | 0 |   | ٠ |   | 2,322    | 449                                     | 04                         | 1,000                                  | 138  | 64                         | 09   | ı   |                            | -                    | 1                            |
| Dukes .    |           | ٠   | ۰ | ۰ | ٠ |   | 26       | 11                                      | 1-                         | 22                                     | *  | ı                          | 1    | ì   | 69                         | ,                    | •                            |
| Essex .    | 4         | •   | ٠ | 0 |   |   | 6,557    | 787                                     | 09                         | 2,404                                  | 370  | 1                          | 89   | i   | 1                          |                      | 1                            |
| Franklin   |           | •   | ۰ | ٠ |   |   | 324      | 68                                      | 1                          | 119                                    | 22   | ,                          | 1    | ı   | ı                          |                      | r                            |
| Hampden    |           | ٠   | • | * |   |   | 4,372    | 723                                     | 144                        | 2,090                                  | 187  | 63                         | 1    | ı   | ı                          | ŧ                    | 1                            |
| Hampshire  | ۰         | 0   | ٠ | ٠ | P | ٠ | 432      | 78                                      | •                          | 284                                    | 27   | -                          | 1    | 1   | 1                          | à                    | ï                            |
| Middlesex  | 0         | 9   | ٠ | 4 | 0 |   | 11,927   | 1,447                                   | 13                         | 4,223                                  | 487  | -                          | 14   | -   | ı                          | 69                   | ı                            |
| Nantucket  | ٠         | ٠   | 4 | 4 | u | 4 | 92       | -                                       | 1                          | 22                                     | 68   | 1                          | ,    | 1   | ı                          | 9                    |                              |
| Norfolk .  |           | ۰   | ۰ | ٠ | ۰ | ۰ | 4,112    | 379                                     | 4                          | 1,236                                  | 96   | 61                         | 01   |   | ı                          |                      | 1                            |
| Plymouth   | 0         | ۰   |   | ۰ | ۰ | ۰ | 1,544    | 283                                     | 80                         | 287                                    | 88   | 8                          | 1    | 1   | 1                          | es                   | 1                            |
| Suffolk .  |           | •   |   |   |   |   | 32,904   | 5,761                                   | 24                         | 10,412                                 | 1,630  | -                          | 46   | 1   | 1                          | 63                   | 14                           |
| Woroster   | 0         | ٠   | • | ٠ | ٠ | 0 | 6,084    | 643                                     | 69                         | 2,605                                  | 171  | -                          | 1    | ı   | 1                          | 1                    | 1                            |
| Total      |           | *   |   |   |   |   | 71,674   | 10,830                                  | 292                        | 25,446                                 | 3,251  | 06                         | 67   | 69  | 8                          | 10                   | 17                           |

ABSTRACT AND TABULAR STATEMENT OF THE RETURNS RELATIVE TO THE LAW, EQUITY, DIVORCE AND CRIMINAL BUSINESS OF THE SUPERIOR COURT — Continued.

|              |        |                             |            |                 |        |                  | CIVIL  | CIVIL CASES.    |       |                           |           |                 |                                 |
|--------------|--------|-----------------------------|------------|-----------------|--------|------------------|--|-----------------|-------|---------------------------|-----------|-----------------|---------------------------------|
| Converge     | Ž      | NUMBER FUNALLY DISPOSED OF. | Y DISPOSED | OF.             | NUMBE  | R PENDING.       | NUMBER PENDING AT END OF YEAR, INCLUDING PENDING INACTIVE CARES. | ZEAR,<br>CABES. | N     | NUMBER TRIED DURING YEAR. | DURING YI | IAB.            | NUMBER<br>OF EQUITY<br>CAREA IN |
|              |        | LAW.                        |            | Divorce         | LAW.   | W.               |  | Divorce         | LA    | LAW.                      |           | 1               | WHICH                           |
|              | Jury.  | Without<br>Jury.            | Equity.    | and<br>Nullity. | Jury.  | Without<br>Jury. | Equity.  | and<br>Nullity. | Jury. | Without<br>Jury.          | Equity.   | and<br>Nullity. | WEEE<br>TRIED TO                |
| Barnstable . | . 144  | 20                          | 31         | 1               | 297    | 63               | 44   | 1               | 16    | 1                         | 1         | 1               | 1                               |
| Berkshire .  | . 240  | 99                          | 34         | 1               | 459    | 75               | 127  | ı               | 53    | 00                        | 9         | 1               | 1                               |
| Bristol .    | 1,012  | 275                         | 174        | 64              | 1.647  | 390              | 414  | 69              | 114   | 28                        | 15        | 1               | 1                               |
| Dukes        |        | 80                          | 11         | 10              | 29     | 16               | 4  | 89              | 00    | 1                         | 1         | 1               | 1                               |
| Essex        | 2,434  | 427                         | 386        | 8               | 5,401  | 702              | 122  | 1               | 233   | 108                       | 34        | ī               | 1                               |
| ranklin      | . 187  | 17                          | 27         | 1               | 193    | 46               | 99   | 1               | 43    | *                         | 12        | 1               | t                               |
| Hampden .    | 1,723  | 422                         | 324        | 103             | 3,770  | 547              | 586  | 43              | 198   | 18                        | 25        | 4               | 1                               |
| Hampshire .  | . 237  | 36                          | 27         | 63              | 3888   | 55               | 78   | 69              | 53    | 1                         | 1         | 1               | ı                               |
| Middlesex .  | 4,750  | 610                         | 643        | 6               | 9,605  | 1,199            | 1,294  | 20              | 264   | 189                       | 49        | 1               | 1                               |
| Nantucket .  | . 30   | 15                          | œ          | 1               | 13     | 40               | 1  | 1               | 63    | 69                        | 63        | 1               | 1                               |
| Nortolk .    | 1,523  | 184                         | 153        | =               | 2,944  | 669              | 323  | 2               | 14    | 53                        | 9         | 1               | ı                               |
| Plymouth .   | . 639  | 808                         | 124        | 02              | 1,237  | 166              | 230  | 86              | 102   | œ                         | 63        | 100             | i                               |
| Suffolk      | 11,332 | 1,839                       | 2,126      | 6               | 25,890 | 4,315            | 5,268  | 16              | 840   | 469                       | 415       | ca              | 2                               |
| Worcester    | 2,359  | 346                         | 288        | 1               | 5,539  | 446              | 532  | 64              | 146   | 126                       | 18        | 1               | ,                               |
| Total        | 26.645 | 4,388                       | 4,356      | 209             | 57,412 | 8.759            | 9.736  | 176             | 2.131 | 1.022                     | 586       | 65              | 9                               |

ABSTRACT AND TABULAR STATEMENT OF THE RETURNS RELATIVE TO THE IAW, EQUITY, DIVORCE AND CRIMINAL BUSINESS OF THE SUPERIOR COURT—Continued

|              |   |   |        |  |         |                            |                |   | 0         | CIVIL CASES.               | ES.             |  |                      |                               |                           |   |
|--------------|---|---|--------|--|---------|----------------------------|----------------|---|-----------|----------------------------|-----------------|--|----------------------|-------------------------------|---------------------------|---|
|              |   | 1 | NUMBI  | NUMBER AWAITING TRIAL AT END<br>OF YEAR. | EAE.    | T END                      | NUMBER<br>YEAR | NUMBER MARKED INACTIVE DURING THE YEAR UNDER RULE OF THE COURT. | LE OF THE | COURT.                     | PENDING<br>TO D | NUMBER MARRED INACTIVE AT ANY TIME,<br>PENDING AT END OF YEAR, AND SUBJECT<br>TO DISMISSAL UNDER THE RULE. | YEAR, AND NDER THE I | ANY TIME,<br>SUBJECT<br>RULE. | NUMBER<br>DURING<br>COURT | NUMBER OF DAYS<br>DURING WHICH<br>COURT HAS SAT |
| COUNTIES     |   | 1 | LAW.   | w.                                       |         |                            | LA             | LAW.  |           |                            | In              | LAW.   |                      |                               | FOR HEARING               | FOR HEARINGS                                    |
|              |   | 1 | Jury.  | Without<br>Jury.                         | Equity. | Divorce<br>and<br>Nullity. | Jury.          | Without<br>Jury.  | Equity.   | Divorce<br>and<br>Nullity. | Jury            | Without Jury.  | Equity.              | Divorce<br>and<br>Nullity.    | Jury.                     | Without<br>Jury.                                |
| Barnstable , |   |   | 289    | 57                                       | 43      | 1                          | 22             | 10  | 12        | 1                          | 34              | 13   | *                    | ,                             | 231/4                     | Cd  |
| Berkshire .  |   |   | 440    | 51                                       | 73      | 1                          | 22             | 12  | 22        | 1                          | 54              | 21   | 39                   | 8                             | 46                        | 00  |
| Bristol .    |   |   | 1,538  | 202                                      | 105     | 1                          | 104            | 51  | 09        | 1                          | 228             | 135  | 129                  | 1                             | 128                       | 46  |
| Dukes        |   |   | I      | ı  | 1       | i                          | 2              | P-  | 1         | 1                          | 1               | 1  | 1                    | 1                             | =                         | 10  |
| Essex .      |   |   | 5,285  | 526                                      | 595     | 1                          | 341            | 88  | 103       | 1                          | 733             | 198  | 200                  | 1                             | 233                       | 102   |
| ranklin      |   | 4 | 87     | 13                                       | 18      | 1                          | 21             | 10  | 90        | 1                          | 40              | 12   | 11                   | 1                             | 30                        | *   |
| Hampden .    |   |   | 3,721  | 540                                      | 569     | 41                         | 322            | 53  | 69        | 63                         | 541             | 188  | 189                  | 33                            | 187                       | 72  |
| Hampshire .  | * |   | 325    | 39                                       | 37      | 84                         | 22             | 10  | 12        | 1                          | 43              | 18   | 50                   | 1                             | 723%                      | 6.0   |
| Middlesex .  |   | - | 9,307  | 1,160                                    | 1,207   | 69                         | 824            | 141   | 161       | 1                          | 286             | 172  | 364                  | 1                             | 326                       | 265   |
| Nantucket .  |   |   | 13     | 30                                       | 1       | 1                          | 1              | 1   | 1         | 1                          |                 |  | 1                    | 1                             | 1                         | 60  |
| Norfolk .    |   |   | 2,926  | 669                                      | 322     | 20                         | 320            | 38  | 37        | 64                         | 229             | 80   | 26                   | 63                            | 78                        | 37  |
| Plymouth .   |   |   | 1,216  | 131                                      | 173     | 29                         | 98             | 58  | 355       | 00                         | 161             | 09   | 29                   | 15                            | 93                        | 32  |
| Suffolk .    | * |   | 21,921 | 3,192                                    | 4,512   | 111                        | 2,318          | 181   | 1,006     | 2                          | 5,218           | 1,711  | 2,011                | 11                            | 1,079                     | 1,115   |
| Worcester    |   | * | 5,451  | 411                                      | 491     | 1                          | 532            | 89  | 85        | 1                          | 880             | 143  | 154                  | ı                             | 202                       | 126   |
| Total .      |   |   | 52,535 | 7,051                                    | 8,145   | 129                        | 4,956          | 1,289   | 1,641     | 20                         | 9,425           | 2,760  | 3,273                | 63                            | 2.504                     | 1,820   |

1 Five days for all types of cases.

# ABSTRACT AND TABULAR STATEMENT OF THE RETURNS RELATIVE TO THE LAW, EQUITY, DIVORCE AND CRIMINAL BUSINESS OF THE SUPERIOR COURT—Concluded

|                | Number of daysdur-<br>ing which Court<br>has sat for trials,<br>hearings or dispo-<br>sitions. | 2/01       | 20        | 53        | 5.1     | 153     | 19       | 62      | 261/2     | 347       | 63        | 125       | 28       | 1,001     | 189       | 2,100  |
|----------------|--|------------|-----------|-----------|---------|---------|----------|---------|-----------|-----------|-----------|-----------|----------|-----------|-----------|--------|
|                | Number awaiting to bas as ead of Jest.   | 28         | 26        | 92        | 1       | 154     | 28       | 167     | 48        | 464       | u/S       | 447       | 172      | 568       | 33        | 2,266  |
|                | Number tried dur-<br>ing year.   | 11         | 38        | 136       | 09      | 204     | 00       | 63      | 38        | 269       | =         | 112       | 116      | 1,957     | 202       | 3,537  |
| ES.            | Number remaining.  | 37         | 84        | 210       | 23      | 199     | 55       | 167     | 141       | 634       | 10        | 210       | 334      | 200       | 43        | 3,142  |
| CRIMINAL CASES | Number disposed of during year.  | 127        | 142       | 1,397     | 2       | 1,783   | 60       | 407     | 163       | 3,503     | 12        | 268       | 835      | 7,107     | 1,210     | 17,530 |
| CRIMINAL       | Number disposed of in previous years brought forward for formand for redisposition.            | 1          |           | 10        | 1       | 20      | 1        | 9       | 26        | 125       | •         | 16        | 107      | 365       | 30        | 831    |
|                | Number of actions<br>on bail bonds or<br>recognizances en-<br>tered.                           | ı          | ı         | 1         | 1       | 14      | -        | 89      | 1         | 22        | 6.9       | 69        | 1        | 22        | 22        | 128    |
|                | Number of appeal   | 384        | 105       | 793       | 9       | 1,247   | 30       | 177     | 119       | 1,490     | ca        | 438       | 430      | 5,226     | 202       | 10,742 |
|                | Number of Indict-<br>ments returned.   | 27         | 26        | 340       | 1       | 516     | 24       | 194     | 35        | 1,486     | 1         | 387       | 318      | 1,326     | 161       | 5,203  |
|                | Number remaining at first of year.   | 52         | 65        | 464       | 24      | 135     | 09       | 194     | 124       | 1,000     | 13        | 360       | 314      | 833       | 112       | 3,768  |
|                |  |            |           |           |         |         |          |         |           |           |           |           |          |           |           |        |
|                |  |            | ٠         | ٠         | ٠       | ٠       | ٠        |         | ٠         | ٠         |           |           |          |           |           |        |
|                | Counties   |            | ٠         |           | ۰       | ٠       |          |         | ٠         |           |           | ٠         | ٠        | ٠         | 4         | *      |
|                | Con  |            | ۰         | ٠         |         | ۰       | ٠        |         | ٠         |           | ٠         | ٠         | ٠        | ٠         | 4         |        |
|                |  | Barnstable | Berkshire | Bristol . | Dukes . | Dancx . | Franklin | Hampden | Hampshire | Middlesex | Nantucket | Norfolk . | Plymouth | Suffolk . | Worcester | Total  |

1 Five days for all types of cases.

Norze. The number of days spent in jury-waived hearings n this table includes the number of days spent in the motion session in Suffolk and in any other county where they have a separate motion session.

MUNICIPAL COURT OF THE CITY OF BOSTON FOR CIVIL BUSINESS SUMMARY, A.D. 1933

|                               | Executions Renewed.                         | 45             | 1          |          | 1          | 45                |
|-------------------------------|---|----------------|------------|----------|------------|-------------------|
|                               | Original Executions Issued                  | 15,669         | 1,066      | 1        | 899        | 17,403            |
|                               | Average Amount of Plaintiffs' Judgments.    | \$242 56       | 161 77     | 1        | 1          | \$217 68          |
| ELNS                          | Amount<br>of<br>Phishitffs'<br>Judgments    | \$3,879,809 05 | 633,363 45 |          | 1,189 30   | \$4,514,361 80 \$ |
| PLAINTIFFS' JUDGMENTS         | Total Plaintiffs' Judgment.                 | 15,995         | 3,915      | L        | 827        | 20,737            |
| INTIFFE                       | Entered by Agreement.                       | 2,334          | 3,122      | ı        | 99         | 5.522             |
| PLA                           | Entered by Trial-After Reservation.         | 477            | 343        | 1        | 15         | 835               |
|                               | Entered by Trial—Open Court.                | 793            | 450        | ı        | 141        | 1.284             |
|                               | Entered by Detault.                         | 12,391         | I          | 1        | 909        | 12 006            |
| NTB.                          | Total Defendants' Judgments.                | 702            | 1,001      | 26       | 80         | 1 000 1           |
| DGME                          | Entered by Agreement.                       | 7              | 62         | 69       | 90         | 7.4               |
| J. S.L                        | Entered by Trial-After Reservation.         | 261            | 410        | 41       | 58         | 24.5              |
| DEFENDANTS' JUDGMENTS.        | Entered by Trial-Open Court.                | 215            | 341        | 27       | 31         | 41.0              |
| DEF                           | Entered by Non-Suit.                        | 185            | 228        | 26       | 14         | 450               |
|                               | Appeals to Superior Civil Court.            | 1              | ì          | 1        | 0          | 0                 |
|                               | Appeals to Supreme Judicial Court-Reversed  | 1              | 1          | 1        | 1          |                   |
|                               | Appeals to Supreme Judicial Court—Affirmed  | =              | 69         | 1        | 1          | 7.0               |
| ded.                          | Appeals to Supreme Judicial Court—Perfected | 18             | 9          | -        | *          | 00                |
| Concli                        | Appeals to Supreme Judicial Court.          | 44             | 18         | 10       | 09         | 40                |
| NOIS                          | Mottons,                                    | 16             | 80         | 09       | 1          | 10                |
| DIVE.                         | Partial Re-Trial Ordered.                   | 1              | 1          | 1        | 1          | C                 |
| APPELLATE DIVISION—Concluded. | Entire Re-Trial Ordered                     | *              | 9          | 1        | 1          | 101               |
| APP                           | Modified.                                   | 1              | -          | 1        | 1          | 6                 |
|                               | Reversed                                    | 9              | 1          | 1        | 1          | 4                 |
|                               | Ammed.                                      | 81             | 88         | 19       | 10         | 124               |
|                               |   | Contract       | Tort       | Contract | All others | Totals            |

Cases Decided.

MUNICIPAL COURT OF THE CITY OF BOSTON FOR CIVIL BUSINESS SUMMARY, A.D. 1933

| 132         | *          | 10               | 3.6   | 87       | Cases Heard.  |                    |
|-------------|------------|------------------|-------|----------|---|--------------------|
| 1           | 1          | ſ                | 1     | 1        | Reports Proved.   | VISIO              |
| 90          | 1          | 03               | 30    | 00       | Petitions to Establish.   | E Di               |
| 99          | -          | ıQ               | 25    | 32       | Reports Allowed.  Reports Disallowed.  Petitions to Establish.  Reports Proved. | ELLAT              |
| 148         | 4          | 10               | 42    | 26       | Reports Allowed.  | APP                |
| 378         | 17         | 12               | 101   | 239      | Requests for Report.  |                    |
| 1,355       | 99         | 88               | 751   | 476      | For Defendant.  | NGS.               |
| 2,219       | 156        | 1                | 793   | 1,270    | For Plaintiff.  | FINDE              |
|             | 25         | 92               | 753   | 732      | Reserved.   |                    |
| 3,584 1,586 | 197        | 103              | 1,544 | 1,740    | Tried.  | LIST.              |
| 2,820       | 1          | 1                | 1     | 1        | Defaulte.   | TRIAL              |
| 483         | 1          | 1                | 1     | 1        | Non-Suits.  |                    |
| 21,593      | 1          | 1                | 1     | 1        | MAAR<br>Notion List.  | KED                |
| 15,367      |            | 1                | 1     | 1        | Xelf noitoble   | MAR                |
| 2,853       | 20         | 20               | 1,238 | 1,525    | To Defendant.   | FB.                |
| 2,909       | 9          | 85               | 2,423 | 395      | Missister of  |                    |
| 711         | 20         | 01               | 24    | 089      | Non-Answer.   | FT.<br>AULT<br>RT. |
| 128         | 10         | -                | 23    | 115      | Non-Appearance.   | DEF                |
| 43          | 6          | =                | 1     | 322      | You-Answer.   | EEE.               |
| 9,581       | 629        | 99               | 422   | 8,565    | Non-Appearance.   | DEFAT              |
| 241         | 1          | 9                | 132   | 103      | Actions Removed to Superior Civil Court over \$5000                             | 0002\$ 10          |
| 1,189       | 1          | 28               | 462   | 689      | Actions Removed to Superior Civil Court-Total.                                  | .fe3o              |
| 200         | 1          | 16               | 389   | 295      | Actions Entered—Over \$5000 Ad Damnum.  |                    |
| 31,421      | 1,149      | 515              | 6,882 | 22,875   | Actions Entered—Total.  |                    |
| Totals .    | All others | Contract or Tort | Fort  | Contract |   |                    |

MUNICIPAL COURT OF THE CITY OF BOSTON FOR CIVIL BUSINESS SUMMARY, JANUARY THRU' SEPTEMBER, 1934

|                            | Casess Decided.   | 55       | 37    | 10               | 4          | 101                       |
|----------------------------|---|----------|-------|------------------|------------|---------------------------|
| ON.                        | Cases Heard.  | 26       | 43    | 9                | 1-         | 112                       |
| IVISI                      | Reports Proved.   | 1        | -     | 1                | 1          | 1                         |
| TE D                       | Petitions to Establish.                                   | 90       | 09    | 1                | -          | 11                        |
| APPELLATE DIVISION.        | Reports Disallowed.                                       | 14       | 9     | -                | 04         | 23                        |
| AP                         | Reports Allowed.  | 99       | 38    | Ξ                | 6          | 124                       |
|                            | Requests for Report.                                      | 125      | 66    | 20               | 10         | 254                       |
| NGB.                       | For Defendant.  | 268      | 249   | 62               | 35         | 914                       |
| FINDINGS                   | For Plaintiff.  | 749      | 129   | 1                | 121        | 1,541                     |
|                            | Reserved.   | #        | 630   | 92               | 62         | 1,172                     |
| TRIAL LIST.                | Tried.  | 1,019    | 1,211 | 85               | 154        | 2,476                     |
| TRIAL                      | Detaults.   | 1        | i     | í                | 9          | 2,195                     |
|                            | Non-Sulte.  | 1        | 1     |                  | 1          | 299                       |
| ED                         | Trial List.   | 1        | 1     | 1                | 1          | 4,403                     |
| MARKED                     | Motion List.  | 1        | 1     | 1                | 1          | 2.847 2.459 11.740 14.403 |
| ED.                        | To Defendant.   | 1.105    | 1.262 | 30               | 11         | 2.459                     |
| INTS.<br>FILED             | To Plaintiff.   | 361      | 2.377 | 101              | 90         | 2.847                     |
| DEFT.<br>DEFAULT<br>COURT. | Non-Answer.   | 460      | 90    | 1                | 1          | 499                       |
| DEP                        | Non-Appearance.   | 106      | 9     | 1                | *          | 116                       |
| T.<br>ULT<br>IK.           | Non-Answer,   | 17       | -     | ı                | 9          | 23                        |
| DEPAULT<br>CLERE.          | Non-Appearance.   | 5.758    | 361   | 99               | 488        | 8.616                     |
| 1 \$2000                   | Actions Removed to Superior Civil Court ove<br>Ad Damnum. | 69       | 60    | Œ                | 1          | 150                       |
| .falo                      | Actions Removed to Superior Civil Court—To                | 368      | 278   | 27               | 1          | 873                       |
|                            | Actions Entered-Over \$5000 Ad Damnum                     | 177      | 338   | 21               | , ,        | 53.6                      |
|                            | Actions Entered—Total.                                    | 14 688   | 5.714 | 482              | 897        | 91 781                    |
|                            |   | Contrast | Tort  | Contract or Tort | All others | Total                     |

MUNICIPAL COURT OF THE CITY OF BOSTON FOR CIVIL BUSIHES SUMMARY, JANUARY THRU' SEPTEMBER, 1934

| Appeals to Supreme Judicial Court.—Perfected  1. 10. 0. Appeals to Supreme Judicial Court.—Perfected  2. 1. 10. 0. Appeals to Supreme Judicial Court.—Meressed  3. 1. 10. 1. 10. 10. Appeals to Supreme Judicial Court.—Reversed  4. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1.  | Defendants' Judgments. | Entered by Ton-Suit.  Entered by Trial—Open Court.  Entered by Agreement.  Entered by Agreement.  Total Defendants' Judgments. | 83 114 154 37 388 | 153 226 323 29 731 | 15 16 41 2 74 | 13 23 17 2 55 | 264 379 535 70 1.248 |
|--|------------------------|--|-------------------|--------------------|---------------|---------------|----------------------|
| bemminA—func) labibut emerqu8 of sleeqqA   set i   set | DEFENDAN               | Entered by Non-Suit.   | 83                | 153                | 15            | 13            | 4 264 379            |
|  | pes                    | Appeals to Supreme Judicial Court—Reven  | 1                 | 69                 | 1             | 1 1 4         | 12 4 4               |
| Motlone.   | -                      | Appeals to Supreme Judicial Court-Perfec   | 23 6              | 14 2               | - 1           | 1             | 39 9                 |
| EDITIO Re-Trial Ordered.   | TE DIVISION—C          | Partial Re-Trial Ordered.  | 1                 |                    | 1             | 1             | 2 - 14               |

## MUNICIPAL COURT OF THE CITY OF BOSTON

### SMALL CLAIMS SUMMARY, A.D. 1933

| 25. 1. 2. Methors Entered.  26. 1. 26. Methors Entered.  27. 1. 2. 2. 2. 2. 2. 2. 2. 2. 2. 2. 2. 2. 2.   |   |              | ntract .    | ort . | Totals      |
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| S   S   S   S   S  |   |              |             |       |             |
| 25. 1. 29 1. 29 2. 20 2. | ions Entered.                           | 15¥          | 800         | 153   | 1,043       |
| 25 2 3 Notices Mailed to Defermed.  10 2 3 3 Notices Heturned.  11 1 1 Notices Heturned.  20 1 5 Notices Heturned.  20 1 5 Notices Heturned.  21 2 Set-offs.  22 1 5 Set-offs.  23 2 2 Set-offs.  24 2 3 Set-offs.  25 1 5 Set-offs.  26 1 6 Set-offs.  27 1 6 Set-offs.  28 2 Set-offs.  29 1 6 Set-offs.  20 1 7 Settled in Court.  20 1 7 Settled in Court.  21 2 3 Settled in Court.  22 1 6 Settled in Court.  23 2 2 Settled in Court.  24 2 3 Settled in Court.  25 1 6 Settled in Court.  26 1 7 Settled in Court.  27 1 7 Settled in Court.  28 2 2 5 Settled in Court.  29 1 8 Settled in Court.  20 1 7 Settled in Court.  20 1 7 Settled in Court.  21 2 5 Settled in Court.  22 1 7 Settled in Court.  23 1 8 Settled in Court.  24 1 7 Settled in Court.  25 1 7 Settled in Court.  26 1 8 Settled in Court.  27 1 7 Settled in Court.  28 1 8 Settled in Court.  29 1 8 Settled in Court.   | orted as Set-<br>d out of Court.        | ISEI<br>1981 | 98          | 1     | 86          |
| 2 5 5 6 Defre.  Notices Returned.  Josephance Returned.  O   | ount of Piffs.                          | CI           | \$21,133 30 | -     | \$22,524 32 |
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| co 1 co Dismissals.  Transferred for Trink.  Dismoved to Su-   | tled in Court<br>ter Hearing.           | 19S          | 14          | 1     | 14          |
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|         |  |   |   |  |                         |                          |                         | JE                          | UDGMENTS.      |                          |                                 |                         |                | Di                        | D!                        | _                         | -· s        |
|---------|--|---|---|--|-------------------------|--------------------------|-------------------------|-----------------------------|----------------|--------------------------|---------------------------------|-------------------------|----------------|---------------------------|---------------------------|---------------------------|-------------|
|         |  |   |   |  | Entered on<br>Defaults. | Entered on<br>Non-Suits. | Entered on<br>Hearings. | Total Phffs.'<br>Judgments. | Amount Plffs.' | Total Deita." Judgmenta. | Amount<br>Defte.'<br>Judgments. | Judgments Va-<br>cated. | Neither Party. | Counter-Claima<br>missed. | Counter-Claims<br>bewella | Plffs. Exons<br>Original. | Delta, Exon |
| batract |  |   |   |  | 345                     | 20                       | 311                     | 558                         | \$11,426 20    | 118                      | ı                               | -                       | 9              | 1                         | 64                        | 502                       | t           |
| ort .   |  |   | ٠ |  | 1                       | 60                       | 108                     | 22                          | 1,339 97       | 34                       | 1                               | 1                       |                | 1                         | 1                         | 1                         | 1           |
| Totals  |  | • |   |  | 345                     | 23                       | 611                     | 635                         | \$12,766 17    | 152                      | 1                               | 1                       | 2              | -                         | 69                        | 250                       | 1           |

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## MUNICIPAL COURT OF THE CITY OF BOSTON

### SMALL CLAIMS

|   | 1934        |
|---|-------------|
| - | ' SEPTEMBER |
| - | THRU        |
| - | JANUARY     |
|   | SUMMARY.    |

| n.<br>n.      | Referred to A                          | 1           | .        | .           |
|---------------|--|-------------|----------|-------------|
|               | Removed to<br>perior Cour              | 1           | 1        | -           |
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|               | .elessimsid                            | ı           | 1        | 1           |
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| 71U           | Settled in Co<br>after Hearin          | 09          | 1        | 69          |
|               | Незтіпдз.                              | 179         | 79       | 258         |
| Court<br>Ing. | Settled in Settled nest                | 6           | 1        | 63          |
| ERS.          | Plaintiffs.                            | 10          | 1        | 22          |
| ANBW          | Defendants.                            | 179         | 7.9      | 258         |
| -uno(         | O to tonomA<br>ter-Claims<br>set-offs. | 1           | 1        | 6           |
| TO 8II        | Counter-Clain<br>Sec-offs.             | 10          | 1        | 10          |
| .8            | Notice to PIR                          | 10          | 1        | 20          |
| rned,         | Notices Retu                           | 55          | I        | 60          |
| rned,<br>Re-  | Notices Retu<br>Acceptance<br>fused.   | 1           | 1        | 1           |
| or b          | Notice Maile<br>Defts.                 | 208         | 116      | 624         |
| shj           | Amount of I                            | \$11,828 69 | 3,409 89 | \$15,238 58 |
| -19S<br>Juno  | Reported as<br>O lo tuo belt           | 33          |          | 333         |
| .bə           | Actions Enter                          | 809         | 116      | 624         |
|               |  |             |          |             |
|               |  |             |          |             |
|               |  | Contract .  | Tort .   | Totals      |

| NC.       | IL.                             |            |        | P.I        |
|-----------|---------------------------------|------------|--------|------------|
| · s       | Defte, Exon<br>Original.        | 1          |        | 1          |
| 9         | Plffe.' Exon:<br>Original.      | 115        | 0      | 115        |
| siG s     | Counter-Claims<br>allowed.      | 25         | 1      | 4          |
| id a      | Counter-Claims<br>missed.       | 1          | -      | 1          |
|           | Neither Party.                  | C1         | 1      | 01         |
|           | Judgments Va-<br>cated.         | t          | 1      | 1          |
|           | Amount<br>Defts.'<br>Judgments. | 1          | ŧ      | 1          |
|           | Total Defts.' Judgments.        | 69         | 53     | 86         |
| UDGMENTS. | Amount Piffs.'                  | \$6,912 65 | 981 94 | \$7,894 59 |
| Jun       | Total Piffs.'<br>Judgments.     | 318        | 56     | 374        |
|           | Entered on<br>Hearings.         | 179        | 62     | 258        |
|           | Entered on<br>Non-Suits.        | 10         | 9      | 16         |
|           | Entered on<br>Defaults.         | 198        | -1     | 198        |
|           |                                 |            |        |            |
|           |                                 |            |        |            |
|           |                                 |            |        | ٠          |
|           |                                 |            | *      |            |
|           |                                 |            |        |            |
|           |                                 |            |        | •          |
|           |                                 |            | *      |            |
|           |                                 | 1          |        | als .      |
|           |                                 | Contract   | Tort . | Total      |

### The Doctrine of No Contribution Between Tort-Feasors

### LAW REVISION COMMITTEE

THIRD INTERIM REPORT

(Reprinted in connection with report on H. 993, see p. 49.)

To the Right Hon. The Viscount SANKEY, G.B.E., Lord High Chancellor of Great Britain.

My LORD.

1. We were appointed a Committee on the 10th January, 1934, "to consider how far, having regard to the Statute Law and to judicial decisions, such legal maxims and doctrines as the Lord Chancellor may from time to time refer to the Committee require revision in

as the Lora Chancettor may from time to time rejer to the Commutee require revision in modern conditions;" and "to report specially as soon as may be upon the following:—

(i) The doctrine of no contribution between tort-feasors. (Merryweather v. Nixan, with special reference to the remarks of Herschell L.C. in Palmer v. Wick and Pulteney-

town Steam Shipping Company Limited. [1894] A.C. 318.)

(ii) The legal maxim actio personalis, moritur cum persona, and the rule that "in a civil court the death of a human being could not be complained of as an injury". (Baker V. Bolton (1808). 1 Campbell 493, and The Amerika [1914] P. 167 [1917] A.C. 1.)

(iii) The liability of the husband for the torts of the wife (Edwards v. Porter [1925]

A.C. 1), and the liability of a married woman in tort and contract, including the form of judgment in Scott v. Morley (20 O.B.D. 120).

(iv) The state of the law relating to the right to recover interest in civil proceedings. (See in particular Roscoe's Nisi Prius, 19th Ed. Vol. 1, 508-12)."

2. The Interim Reports which we had the honour to present to your Lordship in March last dealt with the second and fourth of the doctrines submitted for our consideration. tion. We now have the honour to submit to your Lordship a Report upon the first of the above doctrines.

3. When two or more persons jointly commit a wrongful act, the person injured can recover the full amount of his damage from any one of them. If he does so, the wrongdoer who has paid the whole damage has to bear the whole loss and the other wrongdoers escape liability by reason of the rule of the common law that there can be no contribution between joint tort-feasors.

The rule is different in cases of breach of contract, for where one of several persons, jointly and severally, liable under a contract is called upon to perform the contract in full or to discharge more than his proper share, he has, as a general rule, a right to call upon persons jointly, or jointly and severally, liable with himself to contribute to the liability which he has incurred. (Halsbury Laws of England Vol. VII at 375).

4. The rule that no contribution obtains between joint tort-feasors, which is of obscure

and uncertain origin, first assumed definite shape in the judgment of Lord Kenyon in Merryweather v. Nixan) (1799)8 T. R. 186, 1 Smith's L. C. 13th Ed. p. 449), and applies equally to claims for indemnity by one tort-feasor upon another (Betts v. Gibbins 2 Ad. and E. at pp. 74 and 76). It has often been disapproved. In Palmer v. Wick and Pulleneytown Steam Shipping Co. ([1894] A.C. at p. 324) Lord Herschell, speaking of the rule, said, "It does not appear to me to be founded on any principle of justice or equity, or even of public policy". In Austin Friars Co. v. Spillers & Bakers ([1915] 3 K.B. at p. 592) a case relating to general average, Pickford L. J. described it as an artificial doctrine, and not to be extended.

Early in its history exceptions were engrafted upon it. It has been held inapplicable. (i) where the party seeking contribution or indemnity cannot be presumed to have known that he was doing an unlawful act. Thus in Adamson v. Jarvis (4 Bing. at p. 73) where an auctioneer sold goods at the request of a person who had no title to the goods, Best C.J. said, "The rule that wrongdoers cannot have redress or

no tile to the goods, best C.J. said, I he rue that the injusters of the heart and the contribution against each other is confined to cases where the person seeking redress must be presumed to have known that he was doing an unlawful act";

(ii) where the act was not manifestly tortious; Dugdale v. Lovering, (L.R. 10. C.P. 196, at p. 200) where Tindal C.J. is quoted as having formulated in Toplis v. Grane, (5 Bing. N.C. 636) the principle laid down in Beets v. Gibbins (2 Ad. & E. 57) as follows:—"When an act has been done by the Plaintiff under the express direction of the Defendant which occasions an injury to the rights of third persons, yet if such an act is not apparently illegal in itself, but is done honestly and bona fide in compliance with the Defendant's directions, he (the Defendant) shall be bound to indemnify the Plaintiff against the consequences thereof"; and

(iii) where the act was done in honest ignorance of the facts which constituted

the unlawfulness; Burrows v. Rhodes. ([1899] I.Q.B. 828) where the Plaintiff was induced to take part in the Jameson raid by a representation that the service on

which he was to be employed waslawful.

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In these cases the innocent party has been held entitled to indemnity from the other upon whose request, inducement or representation he had acted.

5. But where the act is manifestly tortious, the rule defeats even an express contract of indemnity; Smith v. Clinton (99 L.T. 840), where the owner of a newspaper agreed to indemnify W. H. Smith & Son against liability for selling copies of the paper which might contain libels—a case which illustrates the hardship of the doctrine.

might contain libels—a case which illustrates the hardship of the doctrine.

The application of the rule has in all cases been strictly confined to cases of tort within the limits specified above. Moxham v. Grant ([1900] 1 Q.B., p. 93). (Collins L.J. citing

Channel J., 1899, 1 Q.B., p. 484.)

6. Section 37 (3) of the Companies Act 1929 (19 & 20 Geo. V. cap. 23) (substantially re-enacting section 84 of the Companies (Consolidation) Act, 1908 (8 Edw. VII. cap. 69), which replaced the Directors Liability Act, 1890 (53 & 54 Vic. cap. 64), s. 5, as amended by s. 33 of the Companies Act, 1907 (7 Edw. VII, cap. 50). gives a right of contribution "as in cases of contract" to a Director or promoter held liable for misstatements in a prospectus against any other person who if sued separately would also have been liable, except where the person made liable has, and the other person has not, been guilty of fraud. This follows the equity rule that a trustee held liable for a breach of trust may recover contribution from his co-trustee unless he alone has been fraudulent. This statutory right of contribution has been applied between directors and co-promoters sued for a fraud in a common law action of deceit; Gerson v. Simpson ([1903] 2 K.B. 197); and the equity rule has been applied in some cases where directors have been charged with misfeasance; see, for instance, Ramskill v. Edwards (31 Ch.D. 100).

7. We think that the common law rule should be altered as speedily as possible. The simplest way of altering the law would seem to be to follow the lines of Section 37 (3) of the Companies Act, and to give a right of contribution in the case of wrongs as in cases of contract.

If this were done, joint tort-feasors in the strict sense would be given a right of con-bution inter se. We think, however, that such a right might with advantage also tribution inter se. be conferred where the tort is not joint (i.e., the same act committed by several persons) but where the same damage is caused to the Plaintiff by the separate wrongful acts of several persons. This is the position which frequently arises where the plaintiff sustains a single damage from the combined negligence of two motor car drivers, and recovers judgment against both. Unless engaged in a common design or unlawful purpose, e.g. racing, such persons are not technically joint tort-feasors. The case of *The Koursk* [1924] P. 140) shows that where independent acts of negligence result in one injury, the cause of action against each Defendant is separate and distinct; but there is no contribution between the Defendants. Scrutton L.J., quoting from Clerk and Lindsell and from Sir John Salmond with some slight amendment, at p. 156, said: "'Persons are said to be joint tort-feasors when their respective shares in the commission of the tort are done in furtherance of a common design . . . but mere similarity of design on the part of independent actors, causing independent damage, is not enough; there must be concerted action to a common end'; still more so when there is not even a similarity of design, but independent negligences accidentally resulting in one damage. This is the view of Sir John Salmond: 'Persons are not joint wrongdoers simply because their independent acts have been the cause of the same wrongful damage'. Salmond on torts, 5th Ed. pp. 84-5. I myself should put 'wrongful' before 'acts' instead of before 'damage'." Lord Justice Scrutton added at p. 158: "If there is no contribution between joint tort-feasors, there is of course no contribution between independent tort-feasors, and the phrase 'no contribution between joint tort-feasors' is equally true if read 'no contributions between tort-feasors'.

We think therefore that when two persons each contribute to the same damage suffered by a third the one who pays more than his share should be entitled to recover contribution from the other.

8. The question then arises whether the contribution by all the wrongdoers should be equal, or whether the Court should have the power to apportion the liability.

We think that there are many cases where such an apportionment might fairly be made, more particularly it might be desirable to adopt with any necessary modifications admiralty practice as to apportionment of contribution, if and when apportionment is claimed by one tort-feasor against another. (cf. The Maritime Conventions Act 1911 (1 & 2 Geo. V cap. 57) Sect. 3) But the apportionment, in our opinion, should be left to the decision of the Judge who should be free in suitable cases to award a complete indemnity.

9. A further question arises as to whether it would be necessary or desirable to introduce any exceptions to the proposed alterations of the rule in Merryweather v. Nizan. As to fraud, it is not easy to envisage a case where one of several tort-feasors is alone guilty of fraud. In actions based on deceit, or for conspiracy to defraud, any defendant who has not been guilty of fraud is under no liability in tort to the plaintiff. Burrows v. Rhodes (supra) is, however, an instance of A being induced to do a wrongful act by the fraudulent misrepresentation of B, which made him believe that the act was not un-

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lawful, and consequently a claim for indemnity was upheld. If A is induced to commit a wrong by the fraudulent or even by the innocent misrepresentation of B that he was commiting no wrong it would not seem right that if B were made liable he should have any right of contribution against A, who, if he had paid, would have a right of indemnity from B.

Similarly in the case of a servant or agent committing a wrong for which his master is liable, under the doctrine of respondant superior; (e.g., Lloyd v. Grace, Smith & Co. [1912] A.C. 716). Ordinarily no one troubles to sue a servant, but there may well be cases of the manager of a large industrial concern committing a wrong in the course of his employment; if he were sued and had to pay, there is no reason why he should get contribution from his master unless the master expressly authorised the act. On the other hand if the master has to pay, it is assumed that he would be entitled to indemnity from the servant under the existing law.

Accordingly we recommend that no contribution should be recoverable from a person, who if he had paid damages, would have been entitled under the present law to be indemnified by the person seeking contribution.

10. We have considered whether an exception to our recommendation ought not to be made in the case where the tort is also a crime. At first sight public policy might appear to demand that such an exception should be made at any rate when the crime is wanton and deliberate and not merely the result of inadvertence. We have, however, come to the conclusion that it is impracticable to draw such a distinction and that any attempt to exclude from our recommendation torts which are also crimes would produce anomalies (such as would result from the fact that libel is a crime while slander is not or that negligent driving may amount to felony) and uncertainties which it would be undesirable to introduce. Accordingly our recommendation is made without qualification.

11. In altering the law on this subject it would seem also desirable to alter the rule that the tort is merged in the judgment even though there is no satisfaction—with the result that a Plaintiff who has sued one tort-feasor to judgment and recovered nothing cannot afterwards proceed against another person equally liable (Brinsmead v. Harrison. L.R. 6, C.P. 584: 7 C.P. 547). The merits of such a rule were stated by the Exchequer Chamber, in the case cited, to be that it prevented multiplicity of actions and that a second jury might award different damages from the first. It is submitted that the rule might be altered in respect of an unsatisfied judgment only, with the provision that a plaintiff should not be entitled to obtain by execution, in the aggregate more than the amount awarded in the first judgment. The case of "The Koursk", referred to above, shows that the rule does not apply to the case of a judgment against one of several independent wrong-doers whose acts have caused the same damage, but only to judgments against one joint tort-feasor strictly so called. If this meets with approval it may be desirable in the future to apply the same rule to actions against joint contractors.

12. We suggest that in any amendment it should be made clear that the plaintiff is not to be obliged to sue more than one joint tort-feasor, and is still to be entitled to recover the whole of his damages from anyone of the joint tort-feasors.

### SUMMARY OF SUGGESTED RECOMMENDATIONS

(I) A judgment recovered against one or more persons in respect of an actionable wrong committed jointly shall not, while unsatisfied, be a bar to an action against any others liable jointly in respect of the same wrong. Provided that the Plaintiff shall not be entitled to levy execution for, or to be paid, a sum exceeding, in the aggregate, the amount of the first judgment obtained against any of the persons so liable, nor to recover the costs of any subsequent action, unless the Judge before whom it is tried is of opinion that there was reasonable ground for bringing it.

(II) Any person who is adjudged to be liable to make any payment or who suffers execution under a judgment recovered against him in respect of an actionable wrong may recover contribution, whether the wrong be a crime or not, from any other person who has been made liable in respect of the same wrong, or who, if sued separately, would have been so liable, unless the person against whom contribution is sought proves that he is by law entitled to be indemnified in respect of his liability by the person seeking contribution. It shall be for the Judge to decide what the amount of the contribution is to be, or whether complete indemnity is to be given.

(III) Where two or more persons have committed independent wrongful acts which have been the cause of the same damage they shall have the same right to contribution among themselves but subject to the same exception as in the case of persons liable in respect of the same wrong.

(IV) If a party to an act alleges that if liable to pay damages he would have a right to contribution from any other person all questions arising between him and such other person relating thereto may be determined by means of third party procedure as prescribed by Rules of Court or in a separate action.

(V) These recommendations, if given effect to, ought not to be retrospective or to apply to any penal action.

(Signed) HANWORTH, M. R. (Chairman.)

WRIGHT.

MARK L. ROMER.

RIGBY SWIFT.

RAYNER GODDARD.

CYRIL ASQUITH.

H. C. GUTTERIDGE.

ARNOLD D. MCNAIR.

WM. EGERTON MORTIMER.

T. J. O'CONNOR.

REGINALD WARD POOLE.

S. L. PORTER.

CLAUD SCHUSTER.

ALFRED F. TOPHAM.

See also Wisconsin Law Review for Dec. 1934, pages 110-112.

### MEMBERS OF THE COMMITTEE

The Right Hon. The Master of the Rolls (Chairman), The Right Hon. Lord Wright,
The Right Hon. Lord Justice Romer,
The Hon. Mr. Justice Swift,
The Hon. Mr. Justice Goddard,
The Hon. Cyril Asquith,
H. C. Gutteridge, Esq., K.C.,
A. D. McNair, Esq., C.B.E.,
W. E. Mortimer, Esq.,

T. J. O'CONNOR, Esq., K.C., M.P., Sir Reginald Poole, K.C.V.O.,

S. L. PORTER, Esq., K.C., Sir Claud Schuster, K.C.B., C.V.O., K.C.,

A. F. TOPHAM, Esq., K.C.

### DISCUSSION OF THE REPORT OF THE JUDICIAL COUNCIL.

ON SENATE 62 AND SENATE 360 RELATIVE TO PROCEEDINGS IN EQUITY AGAINST INSURANCE COMPANIES AFTER JUDGMENTS IN MOTOR VEHICLE CASES,

The Judicial Council was requested by the legislature to consider the subject matter of these two bills and to include in their annual report their recommendations with a draft of any legislation which they might recommend in regard to the subject. The report of the council is contained in the tenth annual report reprinted in this number of the Quarterly (p. 51) and the two bills discussed are printed in the footnote to that page.

The Judicial Council reports as follows:

"We do not recommend either of these bills in their present form, but we submit as a substitute for both the following draft, which is a modified form of the draft which we suggested in our seventh report."

The draft thus submitted by the council then follows on page 51.

The Judicial Council is unanimous as to the form of the bill recommended. The form of the bill recommended by the council when compared with the form of proposed bills, Senate 62 and Senate 360, perhaps carries on its face a sufficient explanation of the reasons for the recommendation for those who are familiar with the subject; but, as a somewhat fuller discussion may assist the bar in visualizing the problem, the reasons of one member of the Judicial Council are here stated merely as his own personal views for which no other members of the council are in any way responsible.

In the seventh report (pp. 33-35), the council described the situation to which these bills relate as follows:

"The standard form of motor vehicle liability policy under the Massachusetts statute defines the word 'assured' to include not only the named assured but also any other person responsible for the operation of the . . . motor vehicle . . . with his express or implied consent.

"The policy covers, therefore, not only judgments for injuries for which the owner of the car is personally responsible, but also judgments in suits against the driver of the car for which the owner is not responsible, and, therefore, can not be sued, provided such driver was using the car with the express or implied consent of the owner, but not as agent of the owner. Accordingly, if a judgment is secured against such a driver, the plaintiff who secures such judgment, if he goes into a court of equity, must bring himself within the terms of the policy by showing that the driver was operating with the express or implied consent of the owner.

"In suits brought directly against the owner, § 85(a), c. 231 of the General Laws inserted by St. 1928, c. 317, provides that evidence that the ear was registered in the name of the defendant as owner 'shall be prima facie evidence that it was then being operated by and under the control of a person for whose conduct the defendant was legally responsible, and absence of such responsibility shall be an affirmative defence to be set up in the answer and proved by the defendant."

Senate 62 proposes to apply this provision to an equity suit to collect a judgment against the owner under the statute which provides that a court of equity may "reach and apply the obligation of an insurance company to a judgment debtor under a motor vehicle liability policy as defined in section thirty-four A of chapter ninety or any other policy insuring a judgment debtor against liability . . . in satisfaction of a judgment covered by such policy," which is not paid within thirty days.

By the standard form of compulsory liability policy the insurance company not only covers the liability but also agrees to "defend in his name and behalf any suit against the assured" (defined to include any person operating with his express or implied consent) "even if such suit is groundless, false or fraudulent."

Under this policy where the suit is against the owner and the counsel for the insurance company defends (without a non-waiver agreement) it appears from the opinions in Daly v. Employers' Liability Ins. Corp. (269 Mass. at p. 5); Goldberg v. Preferred Accident Ins. Co. (279 Mass. 393 at p. 398–9) and Liddell v. Standard Accident Co. (283 Mass. 340 at pp. 343–4) that the insurance company is "estopped to say that the liability claimed is not within the terms of the contract." As to such eases, therefore, Senate 62 seems unnecessary.

As to cases in which counsel for the company defend under a "non-waiver" agreement, they will be sufficiently covered by the draft act submitted by the Judicial Council.

Senate 360 seems similar in purpose to Senate 62, but is sufficiently vague to be of possibly broader and undesirable scope. The most obvious objection to it is that instead of using the phrase "prima facie evidence," it proposes that registration of the ear "shall create a presumption of fact," which is much more vague and misleading than even the phrase "prima facie evidence." It is not even stated that the "presumption" would be rebuttable. The fewer "presumptions of fact" that are created in the law, the better for the interests of justice. The "claim-mindedness," with obvious possibilities of evidence of imaginary facts, which has developed since the compulsory insurance law was adopted and which is quite fully described in the report of the special Commission on the Compulsory Motor Insurance Law (Senate 280 of 1930, pp. 84-87) is naturally encouraged by every artificial rule of law which is created by legislation. All of these artificial rules tend to invite more law suits and to increase verdicts which have to be paid and which, in turn, increase insurance rates which have to be paid by car owners in general.

Accordingly, in the interests of justice and in the interests of car owners who have to pay the compulsory insurance rates, Senate 360 ought not to be adopted.

As to the case described in the seventh report of the Judicial Council (p. 34) of a suit in equity to collect a judgment against a driver, the recent opinions in: O'Roak v. Lloyds Co., 1934 Adv. Sh. 493 (decided March 28, 1934); Gusenfield v. Liberty Mutual, 1934 Adv. Sh. 629 (decided March 1, 1934); Boudreau v. Maryland Casualty Co., 1934 Adv. Sh. 1665 (decided September 13) seem to bring all forms of unauthorized use resulting from violation of the responsibility of a bailee within the original "consent" of the owner to the bailment. These opinions seem to limit the issues of "express or implied consent" in an equity suit, to cases in which the defense of the insurance company is actual theft, or that modified form of theft called "unauthorized taking" of the car. As to such cases, I think it reasonable that registration should be "evidence" of consent "subject to rebuttal," as suggested by the Judicial Council, because the honest judgment creditor will ordinarily know little on that point. But, with so many cars stolen every day and so many opportunities for collusion current, I do not think the ultimate "burden of proof" on the issue of consent in the equity suit should be arbitrarily shifted to the company when the basis of the claim of the judgment creditor is to bring himself within the contract made by the company which does not cover driving by thieves. The words "prima facie" are Latin words which are apt to be interpreted as conclusive. The English language is better and clearer for use in statutes.

The act should also exclude from the operation of any "evidence" rule cases in which the issue of consent is concluded, such as a case in which there was a special finding of theft by the operator. This exclusion would result practically from the phrase "evidence subject to rebuttal" suggested by the Judicial Council.

F. W. G.

### DISCUSSION OF THE STATUTE RELATING TO THE RIGHT OF WAY AT INTERSECTING WAYS.

(Received by the Editor from a member of the Association and here printed for consideration in connection with the report of the Judicial Council.)

This statute referred to by the Judicial Council in its report in this number (p. 34) first appeared as chapter 222 of the Acts of 1920. Briefly stated, it required that every driver of a motor vehicle approaching an intersecting way as defined in section 1 of chapter 534 of the Acts of 1909 should grant the right of way to a vehicle approaching from his right provided both vehicles are arriving at the point of intersection at approximately the same instant. The statute was amended by St. 1926, c. 330 §1, to except from this rule cars operating on or entering a through way. By St. 1928, c. 357 §4, it was again amended so as to provide in brief that this provision should not be applicable where lawful traffic lights, devices or signals were installed and maintained. The following year, by St. 1929, c. 147 §1, the statute was again amended and as thus amended it is now in force, as follows:

Chapter 89, section 8:

"Every driver of a motor or other vehicle approaching an intersecting of any ways, which for the purposes hereof shall mean the area embraced within the extensions of the lateral curb lines, or, if none, then the lateral boundary lines, of intersecting ways as defined in section one of chapter ninety, shall grant the right of way to a vehicle which has already entered such intersection, and every driver of a vehicle entering such an intersection shall grant the right of way to a vehicle so entering from his right at approximately the same instant; but the foregoing provisions of this section shall not apply at any intersection of ways when

a driver is otherwise directed by a police officer, or by a lawful traffic regulating sign, device or signal maintained by or with the written approval of the department of public works and while said approval is in effect or otherwise lawfully maintained."

This statute, as stated in the Judicial Council report, may be summarized as follows:

> "Every driver of a motor or other vehicle approaching an intersection of ways as defined shall

(1) Grant the right of way to a vehicle which has al-

ready entered such intersection, and

(2) Grant the right of way to a vehicle so entering from his right at approximately the same instant."

Then follows the provision as to traffic controlled intersections. The purpose of the statute was to control, if possible, one of the worst problems of motor traffic. It has been the basis for a large volume of criminal prosecutions and civil actions for damages. Controlling of traffic at intersections, the interpretation of the statute and the trial of causes, civil and criminal, growing out of this combination has absorbed the time of courts at great expense to parties litigant and to the public. But more important still, the statute as now worded has tended to increase rather than lessen accidents. As stated by the Judicial Council-where two drivers are approaching an intersection where two sets of rights of way exist, and where there must be quick decision made by all types of intelligence, there is bound to be confusion, misjudgment and an insistence upon what each regards as his right. Moreover there is a common belief that the driver on the right has the right of way under all circumstances. The Supreme Judicial Court has been called upon repeatedly to construe this statute and to review many eases arising out of intersection collisions. Trial judges say that diagrams of intersection squares will show as they do in actual trials that the car from the left has travelled farther in the space than the car from the right. The expression "at approximately the same instant" was difficult enough in its practical application in the trial of cases loaded with conflicting testimony, but when the provision was added that the ear which entered the intersection first should have the right of way, the mischief of the statutory language as applied to intersection accident cases became serious.

Various suggestions have been made looking toward simplification, or clarification, but when applied to all the possible situations which can, and do, develop at intersections they seem to offer neither any particular improvement upon the present law, nor any reasonable basis for a belief that the trial load would be reduced by their adoption. The matter is so serious, however, that further study should be given to it and especially as to the suggestion which has been made many times that the statute be repealed in its entirety. The result would be that every driver of a motor vehicle approaching an intersection would be required to drive his car in such a way that he would not be open to the charge of negligence. There would be no right of one driver against the other. The frequent disputes as to whether the car on the right was in the intersection, or whether the two cars approached at approximately the same instant, would be avoided.

Note. In connection with the above discussion the "starboard hand" rule of the sea in admiralty law might well be studied (see Article 19 of the International Rules of Navigation).

F. W. G.

### THE HISTORY OF THE NEW PARKING LAW, ST. 1934, C. 368.

There was nothing new about the proposal which found expression in this act. The act was the result of at least ten years of discussion before the legislature and in at least four reports which were submitted to the legislature. The details of the act appeared in the report of the special "Crime" Commission (Senate 125 of 1934, Appendix M, p. 220) and the report of the Department of Public Works in 1929 (Senate 5 of 1930, p. 10) which was based on a study of the methods followed in a number of other large cities in the country in regard to the prompt and non-criminal disposition of cases involving the violation of "prudential" regulations as distinguished from acts criminal in their nature. In Boston, under the ordinance holding the registered owner of an automobile prima facie responsible for a parking violation, the act appears to have accomplished its main objectives of relieving casual violators of a criminal record and a further incidental result of clearing the highways of the "all day parker" and closing some subterranean avenues for special privilege.

In other parts of the state where the Boston ordinance has not been adopted, there appears to be a variety of opinions in regard to the act, and suggestions for its repeal have been made. Such suggestions, we believe, should not be followed, but practical experience with its operation has already shown some unjust results which

amendment of detail will remove.

(1) The delays incident to the service of registered mail have led to too many cases in which notice does not reach the person to whom it is sent in time for him to reach the clerk's office within five days after the offence. In the meantime, the license has been revoked and heavy penalty incurred for driving without license besides, in some cases, serious interruption of business in which the use of a car is important. We think a provision for a ten-day notice will shut off many unjust results, and do no harm.

(2) The act is adapted to individuals who drive. It makes no particular provision for the large owners such as department stores, express companies, gasoline companies, operating many

trucks and hiring many drivers.

Very likely other details may need amendment. Possibly the Boston ordinance should be applied to other parts of the state, but whatever amendments may be needed it would be unfortunate if this first experiment in taking these minor matters out of the criminal class should be entirely abandoned for the modern American habit of making a crime and a criminal record out of all kinds of minor matters brings the whole system of law into disrepute and wastes the time and money of the community.

F. W. G.

### INSTRUCTIONS FOR PARTICIPANTS IN THE ROSS ESSAY CONTEST FOR 1935.

Conducted by American Bar Association.

Pursuant to Terms of Bequest of Judge Erskine M. Ross, Deceased.

Those eligible to participate:

Members of Association in good standing, exclusive of previous contest winners, officers, members of Executive Committee, and employees of the Association.

Subject to be discussed:

"The Barrister and the Solicitor in British Practice: The Desirability of a Similar Distinction in the United States."

Length of Paper:

Not more than 5,000 words of text, excluding footnotes. Each paper to be submitted in triplicate (to expedite committee's action); original to show number of text words on each page.

Amount of prize to be awarded:

One Thousand Dollars (\$1,000.00) in cash.

Time when papers must be submitted:

On or before March 1, 1935.

Assignment of interest:

All entrymen will be required, in lieu of an entry fee, to assign to the Association all right, title and interest in the discussion submitted, with the understanding that all discussions not desired for further use by the Association, will be returned to the respective authors, and the interest of the Association therein waived.

Person to whom essay and identifying number should be sent:

OLIVE G. RICKER, Executive Secretary, American Bar Association, 1140 N. Dearborn Street,

Chicago, Illinois.

### THE SELECTION OF JURORS.

INTRODUCTORY STATEMENT.

In October, 1933, as a result of a vote of the Bar Association of the City of Boston, the president of that association, Robert G. Dodge, Esq., appointed a special Committee on Methods of Selecting Jurors. The chairman of that committee was Bentley W. Warren, Esq., who recently has been elected President of the Boston Bar Association to succeed Mr. Dodge. Since the report of this special committee was published in the supplement to the Bar Bulletin, some of the comments in the newspapers have indicated misunderstanding of its recommendations.

In order that it may be fully understood by the bar throughout the Commonwealth, reprints have been obtained and are bound up in this number.

At the meeting of the Executive Committee of the Massachusetts Bar Association on December 15, 1934, thirteen members from different parts of the State being present, it was voted to support the recommendations, on page 27 of the report, for the appointment of a jury commissioner for the Commonwealth, and the further recommendation for the pooling of jurors in Suffolk County and for a study by the Superior Court of the possible use of the plan in other counties. The secretary, while approving of the plan for a jury commissioner and deputies, dissented from the vote in favor of a commissioner for the whole Commonwealth for the reason that he was of opinion that the experiment might better be tried first in some part of the metropolitan area as suggested by the Judicial Council (see 10th Report, p. 37).

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### SUPPLEMENT TO BAR BULLETIN NO. 93. IANUARY, 1935.

### REPORT WITH RECOMMENDATIONS OF SPECIAL COMMITTEE ON METHODS OF SELECTING JURORS.

### The Selection of Jurors in Boston.

### INTRODUCTION.

During the past year the community has been shocked by revelations of jury fixing. 1 Certain recent disbarment proceedings have made it clear that corruption of juries was all too common in this Commonwealth.

On October 7, 1933 the Council of the Boston Bar Association reported: "The fact that during the past few years jurors in this county have been accepting bribes is established beyond per-adventure. Many different jurors have admitted the receipt of money. The disclosures have outraged the community and there is an insistent demand, in which we join, that immediate steps be taken to overhaul the process by which Suffolk County iurors are now selected to the end that the faith of the people in the courts may not be destroyed." As a result the Boston Bar Association at a meeting Voted: "That this Association, assembled in annual meeting, heartily concurs in the statement in the report of the Council to the Association with reference to the Administration of Justice in Suffolk County, and particularly in regard to the corruption of jurors, and urges the Council to take such steps as it may deem appropriate to bring about a remedy."2

The President thereupon appointed the undersigned committee to investigate the selection of jurors in Suffolk County and to suggest any

changes and improvements they deemed wise.

The problems regarding the jury system "may conveniently be divided into two categories; those which have to do with the question of its merits as an adjunct of a court of law for the determination of facts; and those which accept the system itself but raise questions as to its operation, the defects therein and the means of bringing about an improvement." The first of these is one of the fundamental problems of the administration of justice. The trend in recent years has been away from the jury. Such changes as workmen's compensation and the proposed administrative disposition of accident cases are illustrations. Dissatisfaction with juries is doubtless one of the causes of this trend. We, however, have dealt only with the second problem namely: to devise means of raising the

See 19 Mass. Law Q. No. 2, pp. 1-10. 118 Mass. Law Q. #5, p. 2. \*C. N. Callender—The Selection of Jurors, p. 7. \*See R. Moley, Our Criminal Courts, ch. VII.

standard of intelligence and honesty of our jurors. If all jurors were honest and intelligent no jury fixing problem would arise. This does not mean that the problem of purging the bar of crooked lawyers is unimportant. Honesty and intelligence at the bar and in the jury box are equally desirable. This committee has investigated only one side of the problem, the jury side.

Having assumed the continuation of the present system, the next question is what kind of a jury do we want. Should it be strictly a cross section of the community or should it be selected solely on the basis of ability to understand and decide cases? This is a large and important subject. The advantages of intelligence and ability to decide cases are obvious. Without them verdicts will be matters of emotion, prejudice and the like. On the other hand, if ability to decide cases is all that is sought it would probably be best to leave the matter to the judges who after all are experts. The jury is more than the mere decider of cases. It is a balance wheel in the administration of justice, it has been the protector of the people against tyranny, and it might be so again as against a militant bureaucracy. It serves to give laymen an insight into the functioning of the judicial machine and in this sense is an educational institution. It is a buffer for our courts, protecting them from the full effect of the blasts of popular emotion. In a heterogeneous nation such as ours the jury is "called upon to pass upon matters involving every class in the community, on disputes between rich and poor, between employers and employees, between corporations and individuals, between property owners and wage earners, between those of different races and creeds." In such disputes a jury fairly representative of all classes and creeds will be more impartial than one selected solely for intelligence. After all, modern psychology has shown how large a part emotion plays even with the most intelligent. The problem is to find honest jurors with sufficient intelligence to understand the issues presented and yet representative of the community.

### PART I. THE STATUTES—A DESCRIPTION AND A HISTORY.

In its essential characteristics the method of selecting juries now in force in this Commonwealth has had a continuous existence for several centuries. Reduced to its lowest terms, the primary requisite for liability to jury service is qualification to vote; and the selection of the names to be placed upon the jury list is delegated to the city and town officers whose principal duty is that of passing upon qualification for voting,—namely registrars of voters and election commissioners.

When a system has endured for so long a time its very antiquity presents arguments both for and against its further preservation. The fact

that it has continued over such a period lends support to the contention that it must have valuable qualities. On the other hand, the fact that the system originated many centuries ago under different social and communal circumstances gives force to the argument that it should be changed in order to adapt it to the changed social order.

The following brief survey of the history of the method of selection and of the qualifications of jurors in this Commonwealth is presented for the purpose of furnishing some basis for a proper valuation of the system now in force and of some of the reforms therein which have been recently suggested.

### Summary of Present Law.

At the outset it is desirable to understand what the law now provides. The pertinent statute is Chapter 234 of the General Laws and related sections of the Constitution.<sup>1</sup> These provide in substance as follows:

Qualification. All male persons qualified to vote for representatives to the general court, whether registered voters or not, are liable to serve as jurors.<sup>2</sup> Since in the statute those qualified to vote are referred to merely as "persons", it was contended at the time of the adoption of the Nineteenth Amendment to the Federal Constitution and of the Forty-eighth Amendment to the State Constitution, which struck out the word "male" from the State Constitution and provided that persons could not be disqualified from voting by reason of sex, that women were thereby made liable to serve upon juries in this Commonwealth. In an elaborate opinion delivered by the present Chief Justice, the Supreme Court held that the word "person" having been defined and limited by the history of the statute and of the Constitution to male persons, neither the adoption of the amendments above referred to nor the enactment of general laws effected any change, so that the word "person" as used in Chapter 234 is still limited to male persons.<sup>3</sup>

Certain persons liable to serve as jurors are exempt from being required to serve as such.<sup>2</sup> A recitation of the exemptions is not within the purview of the present article. It may be said briefly that various state and Federal officers are exempt as well as members of certain professions, including lawyers, and that persons over seventy years of age and under twenty-five years of age are so exempt. There is of course a clear distinction between exemptions from jury service and disqualification. If a person serving upon a jury is otherwise qualified but is exempt from being liable to serve, as for example being under twenty-five years of age or over seventy years of age, the verdict of the jury will not be set aside as a matter of law, although if the defect is called to the attention of the presiding judge

<sup>&</sup>lt;sup>1</sup>The references to the General Laws are to the Tercentenary Edition.

Sect. 1. Welosky, 276 Mass. 398 (1931). Cert. denied, 284 U. S. 684. See also Opinion of Justices, 237 Mass. 591 (1921).

before the verdict is rendered the judge may dismiss the juror or jury, as the case may be, and should of course do so.<sup>1</sup>

Selection of Jury. The selection of jurors is in the hands of the election commissioners in cities having such boards, the board of registrars of voters in other cities, and the board of selectmen in towns.2 The board to whom the duty of selection is delegated is required annually before July 1 to prepare a list of the inhabitants of the city or town qualified to vote as hereinbefore set forth and not exempt from jury service "of good moral character, of sound judgment and free from all legal exceptions," whom the board "think qualified to serve as jurors." The board is directed not to place the name of any person on the list unless said person is determined to be qualified upon the knowledge of one of its members, or after personal appearance and, if the board deems it necessary, examination under oath.2 The board is given authority to summon persons to appear before it for examination as to their qualifications for jury service, and may compel such attendance and the giving of testimony before a single member of the board, although the board if it so elects may make the examination in the form of a questionnaire to be answered under oath.2 The Board is further authorized to investigate by inquiries at the prospective juror's place of residence and of business or employment, or by other means, and thus ascertain his reputation, character and fitness for such service.2 The police are directed to give the board all possible assistance in making such investigation, and the board or any member thereof is empowered to require any person to answer all questions and give such information as he may have relating to the character or fitness for jury service of any person concerning whom the request is made.2 It is provided that this information shall be confidential.2

The board having by such investigation determined upon a list of persons qualified to serve, makes up a list which is to be numerically not less than one juror for every one hundred inhabitants within the jurisdiction of the board, nor more than one for sixty, except that in Nantucket or Dukes County it may include one for every thirty inhabitants.<sup>2</sup> No person's name may appear on the jury list of more than three successive years or on more than three jury lists in any six year period.<sup>2</sup>

Any questions arising concerning the preparation of the list as to which the board are equally divided are referred, if arising in Boston, to the chief justice of the Municipal Court of the city of Boston, or in the event of his absence or disability, to the senior justice of that Court, or if arising in any other city or in any town, to the justice of the district court within whose jurisdiction such city or town lies, or in case of his absence or

disability, to the senior special justice thereof. The decision of such justice is final.1

After the jury lists are prepared, they are printed with the address and occupation of each juror as public documents.2 The preparation of the list is required to be made annually before July 1 and the printing annually before August 1 in each year.3 A copy of the printed list is then delivered to the mayor or selectmen and to the clerk of the city or town to which the list relates, and to the clerk or assistant clerk of the supreme judicial and superior courts of the county in which the city or town is situated.4

Provision is made for additions to the list in the event that the list as prepared includes less than one juror for every one hundred inhabitants of a city.5

After the list has been prepared the names of the persons on the list are written each on a separate ballot, and the ballots are then rolled or folded so as to resemble each other as much as possible, and so that the name is not visible. These ballots are then placed in a box kept by the city or town clerk for that purpose.6

When jurors are required to attend the supreme judicial or superior courts the clerks issue writs of venire facias requiring the attendance of the appropriate number on such day of the sitting as the court may order.7 The jurors required to attend are apportioned among the cities and towns within the jurisdiction of the county as nearly as may be according to their respective populations.7 These writs of venire facias are then delivered to the sheriff of the county to be transmitted by him to a constable in each of the cities and towns to which they are respectively issued, and such writs are thereupon served by the constable upon the respective boards in cities and upon the selectmen and town clerks in towns.8

The jurors who are to serve in response to these writs are then selected by drawing ballots from the jury box.9 If jurors are to be drawn in a city, the mayor and city clerk meet with the aldermen, or council if the city has no board of aldermen, for the purpose of making this drawing.<sup>10</sup> In towns the drawing takes place at a meeting of the clerk and selectmen held either at the clerk's office or some other public place appointed for the purpose.11 The town may, however, at a meeting vote that drafts for jurors shall be made in open town meeting.12 When the proper persons have assembled at the proper place, the ballots in the jury box are required to be shaken and mixed, and one of the aldermen in a city and one of the select-

Sect. 4. Sect. 9. Sect. 4, Sect. 5. Sect. 5.

Sect. 6. Sect. 7. Sect. 10.

men in a town is required, without seeing the names written thereon, openly to draw a number of ballots equal to the number of jurors required.1 The person drawing these ballots is required to announce clearly and distinctly the names of the jurors so drawn, and then to hand them over for the purpose of verification.<sup>2</sup> After the proper number of ballots have been drawn, an endorsement is placed thereon showing the date of drawing, and the ballot is then returned to the box.3 The meeting for the drawing of jurors is required, unless the court otherwise orders, to be held not less than twenty days before the date when the jurors are required to attend.4 Provision is made for returning to the box the names of any persons drawn who are exempt or unable by reason or illness or absence from home to attend as a juror, or who have served the maximum period as hereinbefore referred to.5

On the day when the jurors are summoned to attend at court for the trial of cases, except capital cases, their names are again written on separate ballots by the clerk and placed in a box provided therefor, and when a case is ready for trial the clerk in open court draws them out in succession until the names of twelve are drawn who appear and are not excused or set aside.6 The twelve men so drawn are the jury to try the case, and one of them is appointed foreman by the court.6 The ballots containing the names of these jurors are then kept apart by the clerk until the verdict of the jury has been recorded or the jury has been discharged, when the ballots are again returned to the box.6 If a case is ready for trial before the verdict in the preceding case has been recorded or the jury discharged, the court may order a jury for the trial of such issue to be impanelled by drawing in the manner aforesaid ballots from those remaining in the box.6 In courts in which there are more than one session of trials, either civil or criminal, the jurors are treated as in attendance at a single session, and although drawings are assigned in the first instance to separate sessions, either civil or criminal, they may be interchanged between the sessions at the direction of the court.7

In a capital case, the names of the jurors summoned for such service are written on separate ballots and placed in a separate box from which names are drawn until the names of twelve persons are obtained who are not excused or otherwise set aside.8

Provision is made for obtaining so-called jurors from the bystanders, or de talibus, in the event that by challenge or otherwise a sufficient number of the jurors drawn in accordance with the provisions hereinbe-

Sect. 18 and 19.

<sup>\*</sup>Sect. 18, Sec. 21. \*Sect. 23. \*Sect. 20.

Sect. 25. Com. v. Dyer, 243 Mass. 572, at 492. Sect. 26.

fore set forth cannot be obtained for the trial of a case. In that event, and provided that there are on the jury not less than seven of the jurors who were originally drawn and summoned, the court may cause jurors to be returned from the bystanders or from the county at large to complete the panel. The jurors from the bystanders may be returned by the sheriff or his deputy or by a disinterested person appointed therefor by the court. Jurors from the bystanders must likewise have the general qualifications for jurors.1

If a party knows of an objection to a juror in time to propose it before the trial and omits so to do, he may not afterward make the same objection unless by leave of court, and no irregularity in the writ of venire facias or in the drawing, summoning, returning or impanelling of jurors is sufficient to set aside a verdict unless the objecting party has been injured thereby or unless the objection was made before the verdict.2

Upon motion of either party the court or, under the direction of the court, the parties or their attorneys, shall examine on oath a person called as a juror in a case to learn whether the juror is related to either party or has any interest in the case or has expressed or formed an opinion, or is sensible of any bias or prejudice. The objecting party may introduce other competent evidence in support of his objection, and if the court finds that the juror does not stand indifferent in the case another is called in his stead.3

In addition to these challenges for cause each party in a civil case is entitled to two peremptory challenges, and two peremptory challenges are also allowed in any criminal case except upon the trial of an indictment for a crime punishable by death or imprisonment for life, in which event twelve peremptory challenges are allowed.4 In criminal cases each defendant is entitled to the whole number of peremptory challenges, and the commonwealth is entitled to as many as equal the whole number to which all the defendants in the case are entitled.4 Peremptory challenges must be made before the commencement of the trial, but may be made after the determination that a person called to serve as a juror stands indifferent in the case.4

Disqualification. If a person's name has been placed on the jury list and either prior to such placing or thereafter he is convicted of any felony or of any other offense punishable by imprisonment in a jail or house of correction, or is guilty of gross immorality or is found by the justice holding court to be unqualified or unfit to serve as a juror, he may be relieved by such justice from sitting in any case, or his name ordered by the justice to be stricken from the jury list.5

<sup>&</sup>lt;sup>1</sup>Sect. 27, Com. v. Sacco, 255 Mass. 369, <sup>2</sup>Sect. 31, 32, <sup>2</sup>Sect. 28, <sup>4</sup>Sect. 29, <sup>4</sup>Sect. 8.

Length of Service. A person attending and serving as a juror in any court is not liable to be drawn or so to serve again within three years of the termination of his service, except in Nantucket and Dukes County in which he is so liable once in every two years.1 In Suffolk County, a person is not required to serve as a traverse juror more than thirty days at any sitting of the court except to finish a case commenced within that time, or in criminal cases at more than one sitting thereof during the year, except that the presiding justice may postpone the whole or any part of the service of a juror to a later day during the same or a subsequent sitting.2

Penalties. Penalties by fine or imprisonment are provided for neglect to attend when summoned as a juror,3 for improperly placing names on the jury list, for soliciting a registrar, selectman or election commissioner to put a name on a jury list, for neglect to draw jurors, or for fraud in the drawing, either by tampering with the jury box previous to the draft or in drawing a juror, or in returning to the box the name of a juror lawfully drawn out and drawing or substituting another in its stead, or striking a name from the jury list, or in any other way.4

The provisions of Chapter 234 do not affect the power and duty with respect to summoning special juries in cases otherwise provided by the statute.5

As will be seen from the foregoing summary and analysis, a comprehensive plan for determining the qualification of jurors and for insuring absence of fraud in their selection is thus provided, whatever may be the fact as to the efficacy of the system in providing the best quality of jurors.

The present statutory provisions are the culmination of a long history of provisions with respect to the qualification and selection of jurors which dates back to the commencement of colonization in this Commonwealth. The Plymouth Colony Laws of 1623 provided that "criminal facts and also all matters of trespasses and debts between man and man should be tried by the verdict of twelve honest men to be impanelled by authority in form of a jury upon their oaths."6 And in 1636: "That all trialls whether capital or between man and man be tryed by Jewryes according to the presidents of the law of England as near as may be."7 There appears at an early date in the record of the Court of Assistants of the Massachusetts Bay Colony references to the selection of jurors, and at the court held on November 5, 1633 the record says: "It is ordered

<sup>&</sup>lt;sup>1</sup>Sect. 2. <sup>2</sup>Sect. 3.

<sup>&</sup>quot;These fines were at one time divided among the jurors who did attend. See e. g. 1802, c. 92. 
Sect. 30-41.

that pees shall be directed by the secretary to the Beadle for the warneing of 24 Jurors before the Court to be named by the Secretary."

The first general statutory provision with respect to the qualification of jurors is contained in the Colonial Laws of 1634, which provided that jurors shall be chosen by freemen of their respective towns and that they should be "so many able, discreet men as the warrant shall require."1 From the reference to the requirement that jurors be chosen by freemen of their respective towns and other references, it is apparent that from the earliest date a necessary qualification for liability for jury service was that one be either a freeholder or a freeman. The requirement for admission as a freeman was that a person be an Englishman, orthodox in his religion and not vicious in his life; that he be either a freeholder or ratable to 10s, for his estate or in full communion with some church, and that he be twenty-four years old; or that he be a householder and settled inhabitant and have been admitted by the General Court to the freedom of the Commonwealth.2 In 1670 the rating requirement was raised to eighty pounds, and the language of the Colonial Laws was that "all Englishmen that are settled householders in any town of the age of twenty-four years and of honest and good conversation being rated at eighty pounds estate in a single county rate and that have taken the oath of fidelity to this Government and no other (except Freemen) may be chosen jurors." By Colonial Laws of 1680, however, it was provided that the inhabitants of every town qualified as in the statute last cited expressed may choose any of the town for jurors although not rated as is expressed in said law.4 It is of course apparent that to be regarded as one of the town such person must be qualified to vote at town meeting.

The Province Law of 1699 provided that jurors were to be elected by the freeholders or other inhabitants of the town qualified as in the charter directed, the jurors to be likewise qualified as aforesaid.5 The Province Charter provided that in order to be qualified to vote one must have an estate of freehold in land within the Province to the value of 40s. per annum, or other estate to the value of forty pounds. This requirement of the Province Charter continued up to the time of the adoption of the Constitution of the Commonwealth of 1780.

Commencing with a statute adopted in 1741 and reenacted from time to time thereafter, the practice of selection according to merit from among those otherwise qualified became established and thereafter continued as a part of the statutory procedure.6 This statute provided that the selectmen should take a list in their towns of all the persons liable by

<sup>&</sup>lt;sup>1</sup>B. L. 30-31. C. L. 86, 87.

<sup>2</sup>C. L. 87, 148.

<sup>§</sup>C. L. 148.

<sup>§</sup>C. L. 148.

<sup>§</sup>C. L. 352.

<sup>§</sup>Prov. L. 1699-1700, c. 1.

<sup>§</sup>1741-2, c. 18; 1749-50, c. 5; 1756-7, c. 13; 1759-60, c. 29. The statute of 1756 and later statutes omitted the division into fourths. There was a preliminary statute of reform in 1736, c. 10.

law to serve and "which they shall judge able and well qualified to serve" on the jury, and lay such a list before the town meeting. The town at the meeting then selected out of that list one-fourth of the number so laid before them as they judged most suitable to serve as jurors of the superior court, and the names of these persons were written on ballots and placed in one box and the names of the remainder written on ballots and placed in another box for service as jurors of the inferior courts. When a writ of venire facias came to the town, the town clerk drew from the appropriate box. While this was the provision with respect to traverse jurors it was for some time provided that grand jurors were chosen by ballots by free-holders of the town.1

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The Constitution was adopted in 1780. Article 4 of Section 3 of Chapter 1 of the Constitution as so adopted provided that every male person, being twenty-one years of age and resident in any particular town in the Commonwealth for the space of one year next preceding, having a freehold estate within the town of the annual income of three pounds or any estate of the value of sixty pounds, might vote for representatives. The first statute passed with respect to the method of selecting jurors after the adoption of the Constitution was enacted in 1784, and provided that "such persons as are of good moral character, qualified as the Constitution directs to vote in the choice of representatives, and not exempted by this act, and such as the selectmen shall judge well qualified to act as jurors" might be chosen as such.<sup>2</sup> The requirement that the juror be "of sound knowledge" was added in the Revision of 1836.<sup>3</sup>

It will be noted, that the present general provisions for qualification for jurors and method of selection are substantially those established at least as early as 1784.

There is, however, one important difference. As appears from the quotation from the Constitution of the Commonwealth, it was necessary in order to be qualified to vote at least up to 1821 that the person have a freehold estate of an annual income of three pounds or any estate of the value of sixty pounds. By the language of the Act of 1784, this property qualification also became a qualification of jury service.

Substantial property qualifications thus continued to be necessary until 1821, when the third amendment to the Constitution was adopted substituting the payment of "any state or county tax for the two years next preceding" for property qualification, and even the slight requirement of tax payment was finally stricken out by the thirty-second amendment in 1891.

Accordingly, since 1891 there has been no requirement that the

<sup>&</sup>lt;sup>1</sup>See e. g. 1784, c. 4. <sup>3</sup>1784, c. 7. <sup>3</sup>R. S. (1836) Sec. 4.

prospective juror have any property or that he pay any taxes, and it is enough that he is qualified to vote for representatives, whether he is a registered voter or not.1

By Article Twentieth of the amendments to the Constitution (1851) there has been added the requirement that a person in order to have the right to vote must be able to read the Constitution in the English language and write his name, and also by Article Forty (1912) it is provided that persons disqualified by law from voting because of corrupt practices with respect to elections could not serve on juries.

### Method of Selection.

The method of selecting jurors within the broad field of qualified voters by the selectmen or other officials having the authority to determine voting qualifications has continued without substantial change from the earliest time, with the exception of instances of election of jurors by the town.2 There is a reference in the records of the Court of Assistants to a warning of "twenty-four jurors before the court to be named by the Secretary." At least since 1741, the jurors have been selected, from among those qualified, by the selectmen or the election commissioners or registrars or voters, as the case might be. The fact that jurors were elected by the freeholders or chosen on the basis of voting qualification is not so anomalous as first appears, for the judges or assistants of the Court of Assistants to which many of the jurors were summoned, were likewise elected by the freeholders.

The discretion given to the selectmen, registrars or election commissioners was in general that they select persons "able and well qualified to serve." For some time it was provided that the town or the board of aldermen, as the case might be, might add names to the list of jurors, but ultimately the authority of the town or board was limited to striking names from the list.

However, the elaborate provisions now contained in General Laws, Chapter 234, Section 4, with respect to the investigation of and determination of the qualification of jurors date only from 1907.4 Even these provisions which were at the time of their enactment in 1907 confined to cities in part, were not expanded to cover the Commonwealth generally until 1924.5

### Length of Service.

The length of time for which a juror might be required to serve has always been a matter of concern to the legislature. It was early provided

<sup>&</sup>lt;sup>1</sup>1924, c. 311. <sup>2</sup>E. G. 1699–1700, c. 1. <sup>8</sup>Court Nov. 5, 1633. <sup>4</sup>1907, c. 348. <sup>8</sup>1924, c. 311.

that "no freeman shall be compelled to serve upon juries above one ordinary court in a year, except grand jurymen who shall hold two courts together at least and such others as shall be summoned to serve in case of life and death or banishment."1

From time to time provisions as to the length of service by jurors were enacted which varied as between courts and as between counties, until the present provisions were enacted in substantially their present form in 1879.2

### Disqualification.

After a person's name has been placed upon the list it might be removed for cause. The early statute of 1784 is substantially like the present one. It provided that "if any person whose name shall be put into either box shall be convicted of any scandalous crime, or be guilty of any gross immorality, his name shall be withdrawn from the box by the selectmen of his town."3 This statute provided, however, that such a person if he could obtain a vote of the town might have his name restored to the box again.4 The general statute of 1807, however, omitted this provision with respect to restoration to the list of the name of a person convicted of a scandalous crime or immorality, although it did provide that the town might alter the list as prepared by the selectmen.5

Until 1907 the law in this respect remained substantially unchanged. the language of the corresponding provision of Revised Laws being: "If a person whose name has been so placed in the jury box is convicted of a scandalous crime or is guilty of gross immorality his name shall be withdrawn therefrom by the board of selectmen and he shall not be returned to serve as a juror." By statute enacted in 1907 the presiding justice was also given authority to remove the name of a juror from the jury list, the statute being altered to read: "If a person whose name has been so placed in the jury box is convicted of a scandalous crime or is guilty of gross immorality, or is found by the justice holding court to be unqualified or unfit to serve as a juror he may be relieved by said justice from sitting in any case or his name ordered by the justice to be stricken from the jury list." In 1926 an additional ground of removal was added in the conviction of a felony or of any other offense punishable by imprisonment in jail or a house of correction for more than one year, but no change was made in the tribunal which was to determine fitness; and the general lack of qualifications or fitness remained as a discretionary ground for removal of a juror's name from the list.8

<sup>&</sup>lt;sup>1</sup>B. L. 30-31. <sup>3</sup>1879, c. 76. <sup>3</sup>1784, c. 7, sec. 2. <sup>4</sup>Sect. 2. <sup>5</sup>1807, c. 140. <sup>6</sup>R. L. c. 179, Sect. 8. <sup>9</sup>1926, c. 193.

### Compensation.

The quality of jurors is probably very little determined by the compensation paid to them. It may be interesting to note, however, that this compensation has varied from six pence per day per juror in 1633 up to \$6 per day in ordinary cases and \$7 per day in capital cases provided for in 1924, and back to \$6 and \$5 respectively as provided in Chapter 162 of the Acts of 1933. Curiously enough, for a time it was provided that jurors were paid by the case, the act of 1749¹ giving them 26s. per case, of which the foreman received 4s. and the other jurors 2s. each. It may be easily assumed that payment by the case resulted in speeding up the jury trial.

### Tampering with the Jury.

Jury tampering is not new. The statutes have provided against it from the beginning, and indeed the first lawyer in the Massachusetts Bay Colony achieved the distinction of being disbarred "for going to the jury and pleading with them out of court." It needs little argument to persuade one that the higher the qualification and ability of the jurors, the less likely that they will be susceptible to improper influences.

### PART II. THE PRACTICE.

### I. Preparation of the Jury List in Boston.

The statute requires the Election Commissioners of Boston of whom there are four, to prepare a jury list each year. This list has to contain a number of names not over 1/60th nor less than 1/100th of the population of Boston. This sets 13,020 as the maximum and 7812 as the minimum number of names to be on the list for 1934–1935. The jury lists in recent years have contained about 11,000 names which is roughly the number on the 1933–1934 list. The election department estimates that at the end of the court year on June 30, 1934, there will remain on the list about 7,000 names. This is after all drawings of jurors and also after removal of names which have been on the list for 3 years without being drawn. This means that about 4,000 names must be added to the old list to make the list for 1934–1935.

To obtain 4,000 new names about 6,000 names must be selected for examination. These 6,000 names are selected from all the wards in the city in proportion to population. Each commissioner is assigned certain wards and is furnished with the voting and police lists of those wards.

<sup>11749,</sup> c. 50. Thomas Lechford, Records 1639.

These lists are so marked that a glance will show which persons are ineligible for jury service and why. Each commissioner places a pencil mark against the number of names needed in each ward, it being entirely discretionary what names he shall mark. This is one of the crucial points in the present system. The wide discretion here allowed may, like all discretionary powers, be abused. On the other hand, it affords an opportunity for the use of judgment and discrimination which, if well used by a person whose primary object is to obtain honest and intelligent jurors, should give the best results. In short, the result will depend on the object sought and the person seeking it. It was impossible to ascertain just how the present commissioners make their selections. All that could be determined was that no regular and uniform system was used. It is a crime to solicit the placing of a name on the list, but there is nothing to prevent the commissioners asking advice. Indeed, to seek advice in each neighborhood might be the best means of obtaining good names. It all depends on the source of the advice. The advice of ward heelers would not tend to produce honest and intelligent jurors. There are rumors that the commissioners mark certain names at the request of politicians, and omit to mark others for a similar reason. Doubtless they are under political pressure to do this. Whether or not they yield to this pressure was impossible for us to determine. But even if they do not, the whole atmosphere in which they act is political. The commissioners are all politicians, and occupy a political office. They are appointees of the mayor, and their office is in City Hall. They have little more than any layman's knowledge of the judicial machine. They do not come in contact with the judges, and know little of the judicial problems. To expect these men to have a keen realization of the great importance of well-qualified jurors is to expect more than is reasonable.

After the names have been selected from the voting lists by the commissioners, they are typed on cards, one name to a card, together with the man's age and address. These cards are then given the police who make inquiry for the purpose of answering the twelve questions printed on the card. (1) residence, (2) employment, (3) employer, (4) place of occupation, (5) physical incapacity for jury duty if any, (6) nature of incapacity, (7) ever arrested, (8) if so for what, (9) is his general reputation such that he would be a good juror, (10) police officer's number. The cards are distributed to the officers on the beats who fill out the cards and return them. This process takes about 3 weeks. Naturally the amount of investigation made by the police must vary greatly. In January, 1933, 8,747 cards were given the police. The results of their

reports to the commissioners were as follows:

|   |      | %    |
|---|------|------|
| Not found                               | 1432 | 16.3 |
| U. S., State, county and city employees | 382  | 4.3  |
| Criminal record                         | 203  | 2.3  |
| Physical disability                     | 112  | 1.2  |
| Dead                                    | 22   | 0.2  |
| Not reported                            | 110  | 1.2  |
| Available                               | 6486 | 74.1 |
| TOTAL                                   | 8747 | 99.6 |

This police investigation has for its chief result the elimination of the names of men who cannot be found. Outside of those who could not be found the eliminations are only 9.2% of whom over half, i.e. 4.3% are public employees. Some of these latter are exempt by the statute, but the policy of the election commissioners is to exempt all public employees. The theory of the police examination is that a policeman knows the people of his neighborhood, and therefore knows which ones would in his judgment be good jurors. The practice does not show any real use of judgment in eliminating the unfit, and is largely a method of ascertaining a few facts.

After the return of the cards from the police, those found available are summoned to appear on a certain day before the commissioners. Over 500 persons a day are examined. They come throughout the day and until 9 in the evening. When they arrive at the commissioner's office, they fill out and swear to a questionnaire giving their name, age, residence, place of birth, whether a citizen, occupation and place of occupation, employer, whether they are physically fit, if not why not, any convictions and if so what. A clerk of the department watches each man as he fills out his questionnaire. If he appears to have difficulty in doing so the clerk puts a question mark on the questionnaire. The prospective juror then goes personally before one of the commissioners. The commissioner usually asks him only one or two questions, and then notes on the back of the questionnaire whether he is accepted or not. In our opinion, the commissioners conceive their primary duty to be to eliminate those persons with a criminal record, those with physical disqualifications, and those with such a very low standard of education and intelligence that it is difficult for them to answer a simple questionnaire. We think that they sincerely attempt to do this, but the standard they set is dreadfully low. It requires considerable intelligence to understand the issues tried to a jury; and a very much higher standard of intelligence should be required than is now required by the Commissioners.

In 1933, 6,486 persons were summoned to appear before the election commissioners. The results were as follows:

|                      |      | %    |
|----------------------|------|------|
| Not found            | 109  | 1.7  |
| Government employees | 29   | 0.4  |
| Criminal record      | 590  | 9.1  |
| Physical disability  | 153  | 2.3  |
| Excused              | 198  | 3.   |
| Failed to appear     | 88   | 1.3  |
| Approved             | 5319 | 82.  |
| TOTAL SUMMONED       | 6486 | 99.8 |

The following table shows all eliminations both by the police and the commissioners:

|                          |      | %    |
|--------------------------|------|------|
| Not found                | 1541 | 17.6 |
| Government employees     | 411  | 4.7  |
| Criminal record          | 793  | 9.   |
| Physical disability      | 265  | 3.   |
| Dead                     | 22   | . 2  |
| Failed to appear         | 88   | 1.   |
| Not reported by police   | 110  | 1.3  |
| Excused on examination   | 198  | 2.3  |
| Approved and put on list | 5319 | 60.8 |
| TOTAL                    | 8747 | 99.9 |

Nothing was done to bring in the 88 who failed to appear. This, therefore, was a loophole to escape service, but not many used it. "Not reported by the police" is another loophole. Excuse because of a criminal record represents a considerable use of discretion as the commissioners said that a few parking convictions did not, in their opinion, constitute a disqualification. Furthermore, no investigation is made of the truth of the prospective juror's own statement as to a criminal record. "Not found," "dead" and "physical disability" need no comment. There seems to be no reason why all government employees should be excused. A certain number of public officials are exempt by statute: those who are not so exempt should be treated like other citizens. The men "excused upon examination" who number 198 or 2.3% include a few who are exempt by statute, also a number who are excused by the commissioners for business reasons. This shows plainly that very few men are rejected by the commissioners because they are too stupid or because their honesty is questionable. The standard of honesty and intelligence set by the commissioners is extremely low. Practically every voter without a criminal record, who is not a government employee, is accepted and put on the list.

Our study of history showed that the theory long adopted in this

Commonwealth was to select jurors according to merit from a large number of persons having certain minimum qualifications.1 According to the theory, the election commissioners have a dual duty, first to make sure a man has the minimum qualifications and, second, to select from that group those best fitted to be jurors. The election commissioners seem to have lost sight of this latter duty. All they do is to make sure that every man on the list has the minimum qualifications, they make little or no attempt to choose the best. In Massachusetts, with the exception of a few highly publicised cases, juries are impanelled without delay and without questioning by the court, which alone has the right to question the jurors.2 In this respect, our practice excels that of many other states where counsel examine each juror, causing delay and injecting prejudicial and incompetent matter. This latter practice is doubtless the result of a method of selecting jurors essentially at random, leaving the elimination of the unfit to examination and challenge at the time of trial.3 The present practice of the election commissioners fails to eliminate the unfit. and its continuation will cause pressure to allow counsel to examine jurors at the time of trial, with consequent delay which that entails.

In selecting jurors, the commissioners are using a very coarsemeshed screen. The process does not seem aimed primarily at the selection of honest and intelligent jurors. A more discriminating process could be used without there being the slightest danger of destroying the representative character of the jury. At present, the statutory exemptions and exemption by the commissioners of all government employees remove many of the best qualified persons. As a counterweight there is the removal of those with criminal records but beyond this there is little

elimination of the unfit.

The jury list gives in one word the occupation of each person. This description is of course meagre and inaccurate, but, for what it is worth, the list was classified into five occupational classes. Not every name was taken but only those on every tenth page.

Class A. Those in the higher positions as managers, superintendents, commercial travelers, professional men, storekeepers and the like.

Class B. White collar workers as clerks, salesmen, etc.

Class C. Skilled and semi-skilled workers as carpenters, chauffeurs, railroad men, mechanics, factory operatives, etc.

Class D. Laborers.

Class E. Public employees.

Having classified the jury list it was compared with a similar classification derived from the figures given by the United States Census of 1930.

<sup>&</sup>lt;sup>1</sup>See supra, p. 10, <sup>3</sup>G. L. c. 234, s. 28. <sup>3</sup>See Callender: The Selection of Jurors, p. 10, and also ch. IV.

|         | U. S. Census |      | Jury List1 |      |
|---------|--------------|------|------------|------|
|         | Number       | %    | Number     | %    |
| Class A | 37,827       | 15.1 | 170        | 15.2 |
| Class B | 58,241       | 23.3 | 360        | 30.4 |
| Class C | 100,761      | 40.4 | 530        | 44.7 |
| Class D | 41,263       | 16.5 | 110        | 9.2  |
| Class E | 11,417       | 4.6  | 0          | 0    |
| TOTAL   | 249,509      | 99.9 | 1170       | 99.5 |

Bearing in mind that these figures are subject to very great errors, it would appear that from an economic standpoint the juries were roughly a cross section of the community.

# II. DRAWING OF JURORS.

After the jury list is prepared, it is printed and sent to the city clerk. The City Clerk of Boston explained the process by which the names on the jury list are placed in the jury box and the method of drawing. Special paper ruled into spaces about one inch by three inches is obtained. Each sheet of paper has forty-two such spaces, and into each space is copied the name, address and ward of a man on the jury list. As the list contains approximately 11,000 names, it takes about 260 of these sheets. All the copying is done on one typewriter. The sheets are then cut by the city printing department into forty-two slips each, and are thrown into a bag provided by the Clerk. They are then brought back to his office and dumped out onto a table. The whole office force is then set to folding these slips. As they are folded, they are swept off the table into baskets. The cutting, the bag and the baskets furnish a thorough mixing of the names. When all the slips are folded, they are put into the jury box filling it to the brim. The box is then locked, the only kevs being in the possession of the Clerk and his assistant.

When a venire is to be drawn, the box is taken to the City Council room and a councilor draws out sufficient ballots to fill the venire. He reads off the names aloud, and hands the slips to the City Clerk who also reads the names aloud. The slips drawn are checked against the jury list, and are also looked over by the girl who typed them. When this has been done, the slips are put in an envelope and put back into a compartment in the box.

We have heard rumors to the effect that there has been dishonesty in the placing names in and drawing them from the jury box. Our investigation leads us to believe those to be entirely unfounded.

Every tenth page taken.

There are about 2,500 jurors drawn by the City Council each year, that is a little less than 1/4 of the names in the jury box.1

### III. INVESTIGATIONS AFTER DRAWING.

After the drawing by the City Council, the City Clerk informs the Election Commissioners of the names which have been drawn. Employees of the Commission then make an investigation at police head-quarters and at the records office of the Commissioner of Probation. Any criminal records disclosed by this investigation are communicated to the Chief Justice of the Superior Court.

There are two other investigations of jurors after they are drawn. The first is of those assigned to the criminal sessions, and is made by the police for the District Attorney. The following is a copy of the questionnaire used:

|  | Date            |   |
|--|-----------------|---|
| Name in full   | ******          | Age                                       |
| Residence  | Ward            | Precinct.                                 |
| Style of living  |                 |   |
| Locality   | ******          |   |
| Business   | Business Ad     | dress                                     |
| Property Owner   |                 |   |
| Married or Single  | Living with     | Wife                                      |
| Character and Association                                |                 |   |
| Habits   |                 |   |
| Is he a man addicted to drinking?                        |                 |   |
| Does he lead a fast life?                                |                 |   |
| Politics   | What fa         | action?                                   |
| Is he a college graduate                                 | Common          | School?                                   |
| Lodge affiliations                                       |                 |   |
| Affiliations with politicians                            |                 |   |
| Affiliations with law and lawyers                        |                 |   |
| Ever served on jury?                                     |                 |   |
| Is he related to any employee in (                       | ity. County or  | State?                                    |
| Was he ever in the employ of the                         | City of Boston? |   |
| Has he a criminal record? If so,                         | state facts     |   |
| (This is very important. Ex of Probate Commission, 174 ( | amine records a | t B.C.I., and at office emberton Square.) |
| ***************************************                  |                 |   |
|  |                 |   |

### GENERAL REMARKS.

Division .... Investigating Officer

<sup>&</sup>lt;sup>1</sup>According to the City Clerk 2,498 names were drawn between July 1, 1932 and July 1, 1933. The clerks of the Superior Court report 1,367 criminal jurors drawn between October 1, 1932 and October 1, 1933 and 1,558 civil jurors between July 1, 1932 and July 1, 1933, a total of 2,925. The difference is due to the fact that the clerk's figures include jurors from Chelsea, Winthrop and Revere.

It will be seen at a glance that this questionnaire is intended to give the district attorney a pretty good notion of the kind of men serving as jurors.

In addition, the chief probation officer of the Superior Court makes an investigation. He writes each prospective juror asking him his name, address, date of birth, occupation, birthplace, height, weight, complexion, father's name, mother's maiden name, married or single, wife's maiden name. When these cards are returned, they are sent to the probation index and if the man has a record, it is typed on the card. This card is then sent the judge of the session to which the juror is assigned. This investigation duplicates the one made by the Election Commissioners, and one or the other would seem unnecessary.

So far as we know there are no private investigations of jurors. The Boston Elevated used to do this, but gave it up. At present, a group of large defendants such as the Elevated, and the insurance companies maintain an index bureau where records of claims against any member are filed. The jury lists are checked against this index, and counsel for the various defendants are notified of the result. In this way, they know whether or not the jury contains men who have had claims against any member of the bureau. Beyond this, we have not heard of systematic private investigations of jurors.

# PART III. SOME OTHER METHODS OF SELECTING JURORS.

#### 1. THE FEDERAL SYSTEM.

The system used by the United States District Court in Massachusetts is quite different from that of Boston. In the first place, the problem is much smaller. Only about 450 men are summoned for jury service each year, as compared with about 2,500 summoned for the Superior Court in Suffolk. The statutory provisions are also different. The Federal statutes (U. S. Code, Title 28, Section 411 et seq) provide that United States jurors shall have the same qualifications and exemptions as the state jurors. They also provide that grand and petit jurors shall be drawn from a box containing not less than 300 names. The names are put in the box by the Clerk of the District Court and by a Jury Commissioner who is required to be of the opposite political party from the Clerk. Both the Clerk and the Jury Commissioner are appointed by the Court. The statutes provide further that the jurors shall be drawn from such parts of the district as will be most convenient and will tend to produce impartial administration of justice. There are a few more minor provisions but this is the substance of the statute.

The first step of the clerk and the commissioner is to obtain the jury lists made up by the various state officials for each city and town in the Commonwealth.

When the number of names remaining in the jury box gets near 300, the clerk and the commissioner meet, and select 450 more names from the jury lists. They have a system by which every city and town in the state is eventually called on for its proportionate quota of jurors.

The clerk gives as his opinion that on the whole, better jurors are obtained from certain occupational classes than from others. He said that he thought that men working in banks, carpenters, farmers, jewellers, toolmakers, engineers and the like were apt to be intelligent and honest. He admitted it was pretty crude, and that the judges had urged him to get taxpayer's lists and the like in the various towns. But he said that to do so would take a prohibitive amount of time. He further thought it might produce a list that was not representative enough. They do, however, make a point of selecting each time a few leading citizens because he thought that one or two high-class men on a panel raised the whole tone tremendously.

Having selected 450 names, a questionnaire is sent each asking for the juror's name, address, age, occupation, date and place of last jury service, and whether there is any reason he is unfit for jury duty. The clerk says he would like to make it fuller but thinks that under the statute and some decisions he has not the power. As a result of the answers to the questionnaire, a few men are eliminated, and a few more drawn in their place. These names are then placed in the jury box from which panels are drawn by lot and summoned as needed.

A rough classification was made of the 180 men drawn to serve during the last three terms of the Federal court. These were all the names now available as the court's papers are misplaced due to moving into new quarters.

| -       | Number | %    |
|---------|--------|------|
| Class A | 64     | 35   |
| Class B | 39     | 22   |
| Class C | 76     | 42   |
| Class D | 1      | **** |
| TOTAL   | 180    | 99   |

A comparison with the classification of the Boston list shows in a rough way that the occupational status of the federal juries is above those in the state court.

## 2. THE CLEVELAND SYSTEM.1

The jury lists in Cuyahoga County are prepared by two jury commissioners who are appointed by the judges of the County Court and who give their whole time to their duties. Their salaries are fixed by the judges, who can also authorize as many assistants as are needed. Prior to 1930, the job was done by part-time commissioners, but that proved unsatisfactory.

In that year the Bar Association was influential in having full-time commissioners appointed. These commissioners made a serious study of the methods of selecting jurors, and their recommendations were finally embodied in the New Ohio Jury Code.

The first step in the selection of names is a mechanical one of selecting every 25th name on the list of electors. The number used depends on the number of jurors required and is set by the court. The names thus marked are sent a letter calling on them to appear for examination. Before mailing the letter, the names are checked against the commission's card index. If this shows that the person is disqualified for any reason no letter is sent him. As a result of these letters about 84% of the people written to appear for examination. The 16% who don't appear include those who can't be found, etc. Only about  $\frac{1}{2}\%$  are eventually unaccounted for.

When the men and women summoned appear they are required to fill out a card giving:

Length of residence in county. Occupation for past five years. Occupation of husband.

By whom employed. Nature of duties. Business address. Citizenship.

Ability to read and write English.

Extent of education.

Married.

How many children at home.

Whether ever indicted or convicted of crime.

Views on capital punishment.

Whether any views opposed to organized government.

After filling out this questionnaire the prospect is examined personally by the commission. The commission was kind enough to furnish us with a tabulation showing the results of this system. For 1933, they were as follows:

| Total persons summoned for examination           |      | 5,329 | 5,329 |  |
|--|------|-------|-------|--|
|  |      | %     |       |  |
| Not found  | 501  | 9.4   |       |  |
| Government employees and exempt persons          | 156  | 2.9   |       |  |
| Ill health and deaf                              | 246  | 4.6   |       |  |
| Dead   | 52   | 1.    |       |  |
| Unsuitable (Includes those with criminal record) | 1105 | 20.7  |       |  |
| Over age   | 130  | 2.4   |       |  |
| Nonresident                                      | 140  | 2.8   |       |  |
| Miscellaneous                                    | 70   | 1.3   |       |  |
| Accepted   | 2929 | 54.9  |       |  |
|  | 5329 | 100%  |       |  |
|  |      |       |       |  |

In Cleveland, summonses are sent by registered mail, and the classification "Not found" includes only those whom the post office certifies cannot be found. Apparently, the post office is more efficient at finding persons than the police, for the percentage not found is 9.4% in Cleveland and 17.6% in Boston.

In order to compare Boston and Cleveland, we have rearranged the Boston table slightly and have removed from both tables the item of "not found." This makes possible a comparison of the action of the commissions in the two cities.

| CLEVELAND           |      |      | BOSTON                       |      |      |
|---------------------|------|------|------------------------------|------|------|
|                     |      | %    |                              |      | %    |
| Government employe  | ees  |      |                              |      |      |
| and exempt          | 156  | 3.2  | Government employees         | 411  | 5.7  |
| Ill Health and deaf | 246  | 5.1  | Physical disability          | 265  | 3.6  |
| Dead                | 52   | 1.   | Dead                         | 22   | . 3  |
| Unsuitable          | 1105 | 22.8 | Criminal record and ex cused | 991  | 13.7 |
| Over age            | 130  | 2.6  | Failed to appear             | 88   | 1.2  |
| Nonresident         | 140  | 2.9  | Not reported by police       | 110  | 1.5  |
| Miscellaneous       | 70   | 1.6  |                              |      |      |
| Accepted            | 2929 | 60.7 | Accepted                     | 5319 | 73.8 |
| TOTAL               | 4828 | 99.9 | TOTAL                        | 7206 | 99.8 |

This comparison shows pretty clearly that Cleveland has a more selective system than Boston. The Cleveland item "unsuitable" includes persons with criminal records as well as other persons who are deemed unfit to be jurors. This item is therefore comparable with the Boston "Criminal record and excused." Cleveland rejects 22.8% of the persons examined as against Boston's 13.7%, and Cleveland accepts only 60.7% as against Boston's 73.8%. We are informed by a member of a Cleveland firm which does a large trial business that the present juries there are satisfactory, and a distinct improvement over the former ones. The above comparison may explain this.

The Cleveland Jury Commission was kind enough to furnish us with the cost of their system. Their personnel consists of the two commissioners, a secretary and two clerks. The whole cost of operation is \$15,000 per year. The size of the job is roughly the same as the one in Boston. In the latter city, 8,747 names were given the police for investigation in 1933. In Cleveland, letters to appear for examination were sent 5,329 people in 1933, 11,215 in 1932, 16,295 in 1931 and 15,451 in 1930.

## PART IV. A CENTRAL POOL OF JURORS.

The foregoing study of the Boston system indicates clearly that the problem is to intensify the weeding out of the unfit so as to raise the standard of honesty and intelligence of our juries. This problem would be much simplified if there were fewer jurors to be examined. There are two ways of doing this without in the least restricting the present use of jury trial. The first is to cut down the number of names required to be on the jury list. The list now contains about 11,000. Only about 2,500 are drawn each year. Clearly, a list of 5,000 or 6,000 names would be sufficient.

The second method would be to establish a central pool of jurors from which each session could draw jurors as needed.

At the present time a jury panel is assigned to each jury session of the Superior Court. The average number of jurors per session, both civil and criminal, is 28. If a particular session runs short, jurors from other sessions may be called in, but most cases in a session are tried by the jurors assigned to that session. There are three undesirable features to this system. First, it makes the task of the would-be jury fixer easy, second, it requires more jurors than necessary, and, third, the effect on jurors of the long periods of inactivity is bad. We feel that a central pool of jurors would tend to eliminate these bad features.

The Crime Commission has pointed out how the present system has simplified the task of the jury fixer (Rep. of Crime Commission p. 142). We might add that the practice of empanelling a jury just before adjournment for the day has the same effect.

Through the courtesy of the clerks of the Suffolk Superior Criminal and Civil courts, we have obtained some figures which enable us to estimate the number of jurors who would be required if a central jury pool were established. The clerk in each civil and criminal session kept a record for all cases in his session during a two weeks period of (1) the length of each trial, and (2) the length of time the jury deliberated. From this we calculated the average length of a trial was 229 minutes, and the average time the jury deliberated was 46 minutes. In calculating this last figure, cases were included where there was no deliberation as, for example, cases where a verdict was directed. This accounts for the short average time of deliberation. Of course, these figures are rough as only a two-weeks period was taken in which time 108 cases were tabulated. Knowing the average length of trials, we can calculate how often a case will start. If there were only one session, a case would start on the average every 229 minutes. If there were two sessions, a case would start twice as often, i. e. on an average of every 1141/2 minutes. There are usually six civil and five criminal jury sessions sitting in Suffolk, so a case will start on an average of every 21 minutes.  $(\frac{220}{11} = 20.8)$ . Now the time a

jury is busy on a case is the time of trial plus the time of their deliberation. Our figures show that this averages (229 + 46) = 275 minutes. As a case starts on the average once every 21 minutes, if we divide  $\frac{275}{81}$ it will give us the number of juries needed.  $\frac{275}{31} = 13.09$ . As we can't have a fraction of a jury, 14 juries will be needed. Challenges might affect this, but in the 108 cases tabulated there were only 23 challenges in 19 cases. As a juror challenged is returned to the pool immediately upon being challenged, there is no need of having more men for this reason. Fourteen juries require 168 men.

At present, there are an average of 28 men in attendance on each session. If there are eleven sessions, this makes a total of 308 men. To be safe, a central pool had better have 192 rather than 168 men. (Experience may show that fewer will suffice.) With this number there is a saving of 116 jurors per day. As a juror receives \$5 per day this is a saving of \$580 per day or \$2,900 per week, assuming eleven jury sessions to be sitting. It is difficult to estimate the annual saving because of the varying number

of sessions but it would amount to a large sum.

When a long case is on trial, it means, when jurors are assigned to a particular session, that all the panel, except the 12 men trying the case, are sitting idle or are excused. This occurs more in the civil sessions than in the criminal. The average length of a civil trial is 5 hours and 42 minutes: the average time of deliberation 52 minutes. If there were just 24 jurors per session, this would mean that each juror was idle 42% of the time. As there are more than 24 jurors, their idleness must approach 50%. In other words, a juror is forced to loaf about half the time. The processes of justice are not over fast at the best, but the impression of our courts created in the minds of those citizens who serve as jurors must be one of great inefficiency and sloth. A central pool of jurors would to a large extent eliminate this evil. No legislation is needed. G. L. ch. 212 sec. 20 provides"...; but jurors summoned for either civil or criminal business may by order of the court be used interchangeably for either civil or criminal business as occasion may require". In Comm. v. Dyer, 243 Mass. 472, on an indictment for conspiracy being tried in the 3rd Suffolk criminal session, jurors were brought in from other civil and criminal sessions of the court, and impaneled to try the case. The defendants excepted to this procedure, but it was held to be proper. "The sitting of the Superior Court each month for Suffolk County for criminal business is single not several. It is conducted in sessions of varying number according to the pressure of business and other controlling causes. . . . The designation in the venire facias of the particular session of the single sitting held each month for the county of Suffolk at which jurors shall attend is a matter of convenience and does not constitute that session a special sitting nor those jurors a special jury under R. L. c. 157 sec. 30 (see now G. L. ch. 212 sec. 21). It is still a single sitting and the jurors may be impanelled interchangeably in any of its sessions."

We recommend the adoption of a central pool of jurors in Suffolk County. It may be advisable to adopt the same system in Middlesex and other counties. We think that the Superior Court might well give the idea serious consideration. As to Suffolk we are clear that adoption would be a step forward.

It is true that a central pool of jurors will require some structural changes in the Suffolk courthouse. A large room will have to be provided where the jurors assemble and from which they are despatched to the various sessions as needed. We think that such structural changes are entirely feasible in the present building and that the cost of alterations will be more than saved by the economies of the pooling system. "There has been much agitation for the adoption of the jury pooling plan in the Court of General Sessions of the county of New York, which has nine parts (i. e. nine sessions). One of the reasons given for its not yet having been adopted is that facilities in the Criminal Courts Building, where this court is housed, are not adequate. Judging from the saving in juror's fees in the courts in which the plan is in operation, any repairs or alterations necessary to provide the proper facilities or the cost of obtaining additional space would be covered by the saving in fees that would result from the operation of the plan."

At present, with jurors assigned to individual sessions a jury in a felony session tries mostly felony cases. These are the serious cases and the jury becomes impressed with the importance of their job. It is said that the sending of misdemeanor cases into the felony sessions has a bad effect on the felony jury, as it breaks the continuity of serious cases. Now the central pool would certainly mix all jurors together and the advantage of trying felony cases before the same jurors would be gone. We feel, however, that this loss, if it is a loss, is outweighed by the advantages. It may be that to mix civil and criminal cases with the differing degrees of proof required would be too confusing to the jurors. We think this might be obviated by furnishing all prospective jurors with a simple description of their duties. This should be prepared with great care and should be in non-legal language. It would seem better not to change all jurors at the same time but a quarter each week. In this way each jury would contain some men who had sat before and the present situation of entirely green juries at the beginning of a sitting would end. There are many other details which would have to be worked out.

This suggestion of a central pool of jurors is not new. It is used in New York, Cleveland, Los Angeles, and several other cities. In New

<sup>&</sup>lt;sup>1</sup>N. Y. Commission on the Administration of Justice. Report on The Organization and Operation of the Supreme Court and the Appellate Courts (1934) p. 40, & 41.

York a large central room has been provided in which the jurors assemble. When a case is assigned to a particular session the attorneys in the case go to this central room and a clerk selects by lot the jury to try the case. At that time, and with no judge present, counsel examine jurors as they may in New York. If any dispute arises the case is sent to the session expecting it and the judge settles the matter. Most juries are, however, finally selected in the central room.

A few extracts from the Report on The Organization and Operation of the Supreme Court and the Appellate Courts made in 1934 by the New York Commission on the Administration of Justice are interesting. They list the advantages of the jury pool (p. 37) as (1). Reduction in number of jurors. (2.) Decreased cost. (3.) Saving of court's time. (4.) Saving jurors' time. (5.) Greater comfort for jurors. The system is not in operation in all New York courts, and the commission recommends "In view of the fact that the jury pooling plan has resulted in a saving of time and money in all the courts in which it has been adopted we recommend that the jury pooling plan be put into effect in all courts throughout the state where two or more parts are sitting simultaneously." (p. 41.)

The jury commissioners in Cleveland state that the central pool saved 50% of the cost of jurors (Letter from jury commissioners April 4, 1934), and in Los Angeles the saving was 49% (17 Journal American Iudicature Society, 171).

## PART V. RECOMMENDATIONS.

We recommend that a jury commissioner for the Commonwealth be appointed by the Superior Court. The court should also be given power to appoint as many deputy commissioners as may be deemed necessary and both the commissioner and deputies should be removable by the court at any time and at will. The compensation of the commissioner and deputy commissioners should be fixed by the court, which should also fix the allowance for clerical and other expenses. The duty of the commissioner would be to prepare the jury lists for all cities and towns in the Commonwealth. The expense should be apportioned by the court among the cities and towns.<sup>1</sup>

We also recommend the creation of a central pool of jurors in Suffolk County and the study by the Superior Court of its possible use in other counties. These are our two chief recommendations. The first requires action by the legislature, the second only action by the court except so far as structural changes in the court house are involved.

<sup>&</sup>lt;sup>1</sup>The Grand Jury of Passaic County, New Jersey made a similar recommendation on February 23, 1934. "The Grand Inquest does further report that it is unanimously of the oninion that juries in the future should be selected by one Jury Commissioner, to be designated by the presiding justice of the Supreme Court. Such Commissioner should be removable at will and he should have the right to employ and discharge his assistants with or without cause."

The Judicial Council 'recommended¹ a jury commissioner for some part of the metropolitan area only. They felt it less well adapted to rural communities. Massachusetts is not a very large state and on the whole it is homogeneous. We believe that the advantages of a commissioner are so clear that the change should be state wide. In this we agree with the Special Crime Commission which recommended that the plan be state wide.² The Crime Commission also recommended that there be a commissioner for each county. We disagree with this. In most counties of the state the work of making up the jury lists would probably occupy only part of a person's time. This we think would be a serious disadvantage. One of the defects of the present system is that the selecting bodies give only a small part of their time to the selection of jurors. We feel clear that this should be a full time job. The experience in Cleveland confirms our belief.

The present system suffers chiefly because the men who are operating it know little or nothing about the judicial machine. Not knowing the problems which face the courts, they lack a keen realization of the tremendous importance of honest and intelligent jurors. The few perfunctory questions they ask are not calculated to afford an intelligent basis for a judgment as to a man's fitness for jury duty. A commissioner who realizes the importance of the problem and who gives his whole time to his duties should develop a pride in producing high-class jurors and a skill in sorting them out from among the many persons who will appear before him. Furthermore not being a political appointee he will not be exposed in the same degree to political pressure for favors in making up the jury list.

A commissioner and his deputies appointed by the Superior Court will also make it easier for the judges of that court to bring their influence to bear toward raising the standard of the juries. They have a power and a prestige which if brought to bear would do far more than anything else to realize the end desired.

Our reasons for a central pool of jurors were given in the discussion. They are primarily economy in expense, and improvement of morale of jurors by eliminating long periods of inactivity.

Further recommendations are:

1. A reduction of some of the persons now exempt from jury duty. The following are now exempt: "The governor, lieutenant governor members of the council state secretary; members and officers of the senate and house of representatives during a session of the general court; judges and justices of a court; county and associate commissioners; clerks of courts and assistant clerks and all regularly appointed officers of the courts of the United States and of the commonwealth; registers of probate

<sup>19</sup>th Rep. Judicial Council 10. 3Rep. Special Crime Commission 141.

and insolvency; registers of deeds; sheriffs and their deputies; constables; marshals of the United States and their deputies; and all other officers of the United States; attorneys at law; settled ministers of the gospel; officers of colleges: preceptors and teachers of incorporated academies: registered practicing physicians and surgeons; persons over seventy years of age; persons under twenty-five years of age; members of the volunteer militia; superintendents, officers and assistants employed in or about a state hospital, insane hospital, jail, house of correction, state industrial school or state prison; keepers of lighthouses; conductors and engine drivers of railroad trains; teachers in public schools; enginemen and members of the fire department of Boston, and of other cities and towns in which such exemption has been made by vote of the city council or the inhabitants of the town, respectively." Part of these exemptions are because the nature of the occupation makes a man unfit as a juror. In this class are officers of the courts, etc. The other part are occupations so important to the community that jury duty cannot be allowed to disturb them, as doctors, etc. We see no reason why members of the militia or conductors and enginemen of railroads should be exempt. Both these classes would furnish excellent jurors.

2. A reduction of the number of names required to be placed on the jury list. The present statute requires in Boston a list of from 7,812 to 13,020 names whereas only about 2,500 names are drawn for service each year. These extra names greatly increase the labor of selection. The fewer names on the list the more careful can be the scrutiny. Five thousand to six thousand names would be sufficient at present and the adoption of a central pool would make the requirement less. We suggest that the minimum number of names to go on the jury list for each city and town of the Commonwealth be set annually by the Chief Justice of the Superior Court.

3. If the recommendation for a jury commissioner is adopted he should be given charge of the drawing of names from the jury box instead

of the various town and city authorities.

4. If a central pool is adopted and the term of service is not shortened a new venire might be summoned weekly. Thus, in Suffolk where the term of service is four weeks, one-fourth of all the jurors required would be summoned each week. In this way there will be new jurors coming in weekly.<sup>1</sup>

5. We recommend that in any event the Superior Court prepare a short and simple description of the duties of a juror. This should be printed and given each juror when he begins his service. This would not necessarily dispense with oral instructions to each new venire. Both would probably be a good plan.

The examination of jurors now conducted by the chief probation officer in Suffolk seems to be a duplication and with the adoption of a jury commissioner should be discontinued.

7. It has been suggested to the committee that the term of service for all jurors be made not to exceed two weeks. There are two reasons given for this suggestion. First, it makes jury service less onerous and thus less distasteful to the public. It is a truism today that the citizen who seeks to avoid jury service is the very one who is most desirable. Doubtless the efforts of such persons to avoid service will be less strenuous when the time of service is shorter. Second, a short term makes the job of the fixer more difficult. He has less time in which to investigate and approach the members of the panel who might be susceptible to influence. We suggest that the judges of the Superior Court give this proposal serious consideration. Without making a careful study of the law we believe that a shortening of the term of jurors can be effected by the Superior Court without the aid of legislation. The court has power to issue writs of venire facias "before each sitting and at such other times as the respective courts may order" (G. L. ch. 234, sec. 10. See also sec. 12.) The court also has power to excuse jurors. Except for Suffolk County. there is no legislation limiting the length of service of jurors. That legislation (G. L. ch. 234, sec. 3) provides that "a person shall not serve as a traverse juror in Suffolk more than 30 days at any sitting of the court -----nor in the trial of criminal cases at more than one sitting thereof during the year." This sets a maximum. We believe that the court has power to reduce the length of service below that maximum.

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